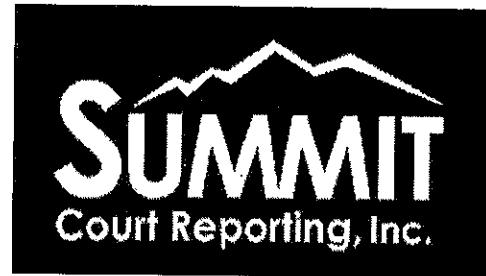


## EXHIBIT “3”



Compressed Transcript of the Testimony of  
**BRIAN MONAGHAN, 1/17/17**

**Case:** McIntyre v. Liciardello, et al./Torain v. The City of Phila., et al.

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Page 3

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

JAMES McINTYRE, : CIVIL ACTION  
Plaintiff, :  
vs. : LEAD DOCKET  
POLICE OFFICER :  
LICIARDELLO, et al., :  
: NO. 13-2773  
Defendants. :

KAREEM TORAIN,  
Plaintiff,  
vs. : CIVIL ACTION

THE CITY OF :  
PHILADELPHIA; :  
PHILADELPHIA POLICE :  
OFFICER WALKER, BADGE :  
# 3730; PHILADELPHIA :  
POLICE OFFICER :  
REYNOLDS, BADGE # 4268; :  
PHILADELPHIA POLICE :  
OFFICER MONAGHAN, : No. 14-1643  
BADGE # 6061. :  
individually and in :  
their capacity as :  
police officer, :  
Defendants. :

ORAL DEPOSITION OF BRIAN MONAGHAN  
January 17, 2017

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Page 2

Page 4

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and Lieutenant Robert Otto  
ALSO PRESENT:  
POLICE OFFICER BRIAN REYNOLDS  
MARK FAZLOLLAH - The Inquirer

1 (Pages 1 to 4)

			Page 5	Page 7
1	2	3	4	5
1	INDEX			courthouse, and the reasons for that will
2				be outlined in the motion. I agreed to
3	WITNESS	PAGE		have this deposition here today without
4	BRIAN MONAGHAN			waiving that objection because Mr. Pileggi
5	By Mr. Pileggi	9, 284		represented to me that he has some
6	By Mr. Walker	241		scheduling issues in late July. So I --
7	By Mr. Brigandi	289		late January. So I promised him that I
8	---			would produce Officer Monaghan this week.
9	EXHIBITS			I did not have time to file the motion
10	NUMBER	DESCRIPTION	PAGE FIRST REFERENCED	because of that.
11	Monaghan-1	Investigation Report	25	Secondly, Mr. Pileggi indicated to
12	Monaghan-2	Search Warrant	124	me in an E-mail sent to me last week that
13	Monaghan-3	Preliminary Hearing Notes	128	he would not be going into private and
14	Monaghan-4	Photograph	169	personal financial information regarding
15	Monaghan-5	Photograph	171	Officer Monaghan.
16	Monaghan-6	Photograph	171	Is that accurate, Mr. Pileggi?
17	Monaghan-7	Photograph	173	MR. PILEGGI: That's correct.
18	Monaghan-8	Photograph	173	MR. BRIGANDI: Okay. Thirdly, there
19	Monaghan-9	Photograph	173	doesn't seem to be any press corps here at
20	Monaghan-10	Property Receipt	181	the moment, but that certainly would be
21	Monaghan-11	Three Property Receipts	191	one of the reasons why we're filing the
22	Monaghan-12	Property Receipt	200	motion to change the venue from out of the
23	Monaghan-13	Motion to Suppress Testimony	218	courthouse.
24	Monaghan-14	Affidavit of Probable Cause	235	MR. PILEGGI: This is Michael
			Page 6	Page 8
1	2	3	4	5
(It is hereby stipulated and agreed	by and among counsel for the respective	parties that reading, signing, sealing,	filing and certification are waived; and	Pileggi on behalf of some of the
that all objections, except as to the form	of the question, are reserved to the time	of trial.)	of the question, are reserved to the time	Bellwether plaintiffs. We anticipate that
-----				the motion will be filed. We'll respond.
9	10	11	12	When I say "we," I'm referring to all
BRIAN MONAGHAN, after having been	duly sworn, was examined and testified as	10	11	Bellwether plaintiffs.
11	12	13	14	We will articulate what our response
13	14	15	16	is, but one of the major concerns with
15	16	17	18	regards to the depositions taking place at
17	18	19	20	the courthouse was for the safety and
19	20	21	22	welfare of former Police Officer Jeffrey
21	22	23	24	Walker who is present today. So with that
23	24			being said...
Just a short statement on the record	in regards to the ongoing objection to the			MR. BRIGANDI: Just one final thing.
17	18			In addition to Officer Monaghan and former
19	20			Officer Walker, the only other law
21	22			enforcement officer here in the room is
23	24			Brian Reynolds, who is sitting in the back
24				just for the record.
Defendants -- co-defendants will be	filling a motion shortly with Judge Diamond			MR. PILEGGI: Who -- you may want to
21	22			put this -- is part of the Torain case.
22	23			MR. BRIGANDI: Correct. He's a
23	24			party in the Torain case.
24				MR. WALKER: I'd like to put on the
				record my name is Jeffrey Walker. I'd

2 (Pages 5 to 8)

<p style="text-align: right;">Page 9</p> <p>1 like to put on the record that I will be 2 attending all depositions because I am a 3 defendant in these cases and I am 4 representing myself. 5 Based on recent events of 6 intimidation, I feel as though it's fair 7 for me for my safety to have everything in 8 the courtroom. 9 MR. PILEGGI: Ready to proceed? 10 MR. BRIGANDI: Ready. 11 --- 12 (EXAMINATION) 13 --- 14 BY MR. PILEGGI: 15 Q. Good morning. May I call you officer or 16 agent? 17 A. Officer. 18 Q. Officer. Good morning, Officer Monaghan. 19 A. Good morning. 20 Q. Officer, just for the record, could you 21 spell your name? 22 A. Yes. Brian, B-R-I-A-N, Monaghan, 23 M-O-N-A-G-H-A-N. 24 Q. Officer, my name is Michael Pileggi, and I</p>	<p style="text-align: right;">Page 11</p> <p>1 A. Sure. 2 Q. Of course, you're under oath. 3 Do you have any questions at this 4 point? 5 A. No, not right now. 6 Q. Okay. As I stated, I'm going to be asking 7 you questions concerning a job that you worked on 8 when you were lead investigator when you were at 9 the Philadelphia Police Department. 10 A. Yes. 11 Q. Before we get into those questions, 12 specific questions about the case, I want to ask 13 you some of your background. 14 Do you recall when you became a 15 Philadelphia Police Officer? 16 A. Yes. I became a police officer -- I 17 started at the academy November 14, 1988. 18 Q. Okay. I'm assuming you graduated from the 19 academy? 20 A. Yes, I did. 21 Q. Okay. What was your first assignment as a 22 Philadelphia Police Officer? 23 A. The 19th District, which is in West 24 Philly.</p>
<p style="text-align: right;">Page 10</p> <p>1 am plaintiff's counsel in what we call the 2 Bellwether cases. In particular, I'm going to be 3 asking you questions today about the arrest and 4 prosecution of Kareem Torain. 5 A. Yes. 6 Q. That's T-O-R-A-I-N. Officer, before we 7 begin, let me just give you some of the ground 8 rules we're going to be proceeding with today. 9 I'm going to be asking you a series 10 of questions. If you don't know the question -- 11 the answer, you can so indicate. If I ask a 12 confusing question, which I've been known to do, 13 just have me rephrase it or repeat it. Whatever I 14 need to do to get you to understand. 15 Okay? 16 A. Okay. 17 Q. When you respond, I'm going to assume that 18 you understood the question. Now, one thing. 19 There's one caveat. If we have to take a break -- 20 I don't think we're going to be here that long, but 21 if you have to take a break at any time you can do 22 so. Just let me know. You just can't do it when 23 there is a pending question. 24 Okay?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. A patrol officer? 2 A. Yes. 3 Q. Do you recall how long you were in the 4 19th District for? 5 A. Ten years. 6 Q. Did you maintain patrol officer status or 7 at any time were you promoted? 8 A. No, I maintained police officer status. 9 Q. Okay. So that took you up to about 1998? 10 A. '99. 11 Q. '99? 12 A. Yes. 13 Q. What happened then? 14 A. I was transferred to the narcotics strike 15 force. 16 Q. And just how did you become a member of 17 the narcotics strike force? 18 A. I put in a transfer to be transferred out 19 of the 19th District to go to a special unit, and I 20 was approved to go to that unit. 21 Q. Did you have to undergo any training prior 22 to getting that position? 23 A. Yes, narcotics field training. 24 Q. Do you recall how long that was?</p>

<p style="text-align: right;">Page 13</p> <p>1 A. Just -- it was probably in-house training. 2 Departmental training. How to field test drugs. 3 Stuff like that.</p> <p>4 Q. Is it along the same lines as MPO 5 training?</p> <p>6 A. It's similar to it, yes.</p> <p>7 Q. Okay. So you go into the narcotics strike 8 force -- by the way, in the narcotics strike force, 9 what were some of your duties?</p> <p>10 A. Well, it was a uniform and plainclothes 11 job. We did street corner narcotics 12 investigations.</p> <p>13 Q. Short-term investigations?</p> <p>14 A. Yes.</p> <p>15 Q. Takedowns?</p> <p>16 A. Takedowns.</p> <p>17 Q. Did you participate -- as a narcotics 18 strike force member, did you participate in 19 searches?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Did you participate in searches where 22 there was more of the long-term investigations, 23 searches of houses?</p> <p>24 A. Towards the last couple months that I was</p>	<p style="text-align: right;">Page 15</p> <p>1 that.</p> <p>2 Q. How about informants, whether they're 3 confidential informants or sources?</p> <p>4 A. In the strike force we didn't use 5 confidential informants or sources.</p> <p>6 Q. So you -- it was more on takedowns on the 7 street corners, short-term investigations, and 8 maybe searches and seizures?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay. How long were you in the strike 11 force for?</p> <p>12 A. I would say about a year and a half.</p> <p>13 Q. And then what happened?</p> <p>14 A. I think it was around 2000, maybe the end 15 of 2000, I went to the narcotics field unit, 16 Southwest Division.</p> <p>17 Q. Okay. And how did you get that promotion? 18 Was that a promotion?</p> <p>19 A. It was kind of like a lateral transfer.</p> <p>20 Q. How did you get that?</p> <p>21 A. I was asked by the captain if I was 22 willing -- if I wanted to come to the field unit, 23 and I said yeah. It's kind of like the step up for 24 some officers of being a strike force, which is a</p>
<p style="text-align: right;">Page 14</p> <p>1 in the strike force we were able to do search 2 warrants on houses, yes.</p> <p>3 Q. Okay. As a strike force member, were you 4 the one actually executing the searches and seizure 5 warrants or were you just on the team that was 6 going into the houses and searching?</p> <p>7 A. It all depended. Mostly on the team.</p> <p>8 Q. But there was times where you would -- you 9 or other members of the strike force would actually 10 execute the searches and seizures?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And am I correct that part of that 13 training to become a narcotics strike force member 14 you had to familiarize yourself with the policies 15 and procedures, Philadelphia Police Department 16 policies and procedures?</p> <p>17 A. Yes, I did.</p> <p>18 Q. All right. And specifically with regards 19 to searches and seizure warrants?</p> <p>20 A. That's correct.</p> <p>21 Q. All right. Anything else you recall as a 22 strike force member that you -- any other policy 23 that you had to familiarize yourself with?</p> <p>24 A. Well, use of force policies and stuff like</p>	<p style="text-align: right;">Page 16</p> <p>1 uniform narcotics detail to a plainclothes detail 2 undercover capacity.</p> <p>3 Q. Okay. Who was the captain?</p> <p>4 A. David Testa.</p> <p>5 Q. Is he still there?</p> <p>6 A. He's still living, but he's not on the job 7 anymore.</p> <p>8 Q. Am I correct that this lateral move into 9 the narcotics field -- narcotics field unit?</p> <p>10 A. Yes.</p> <p>11 Q. You take on greater responsibilities, 12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. And that's more long-term investigations?</p> <p>15 A. Yes.</p> <p>16 Q. Am I correct that not only are you also 17 doing the search and -- searches in homes and 18 taking down buyers/sellers on the street corner, 19 but you also extend those duties to the use of CIs, 20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Executing searches and seizure warrants?</p> <p>23 A. Correct.</p> <p>24 Q. Anything else? Surveillance?</p>

Page 17

1 A. Surveillance.  
 2 Q. Did you do surveillance in the narcotics  
 3 strike force?  
 4 A. Yes, I did.  
 5 Q. Okay. And, again, was that more  
 6 surveillance of the street corner-type  
 7 transactions?  
 8 A. Yes, it was. Yes.  
 9 Q. Did that extend to surveillance of homes  
 10 when you became a field -- a narcotics field  
 11 member?  
 12 A. Yes, it did.  
 13 Q. Was there any other set of policies and  
 14 procedures that you had to familiarize yourself  
 15 with when you became a field unit member as opposed  
 16 to when you were in the strike force?  
 17 A. No. I would say about the same. Same set  
 18 of policies.  
 19 Q. And just so we're clear, you had to still  
 20 undergo your MPO training every year?  
 21 A. That is correct.  
 22 Q. Was Captain Testa -- was he the -- how was  
 23 he affiliated with the field unit at the time?  
 24 A. He was a captain of the South Division,

Page 18

1 which took care of South, Southwest and West  
 2 Division.  
 3 Q. When you became a field unit member, how  
 4 did you -- how were the field units broken up at  
 5 that time?  
 6 A. I believe at that time it was broken up in  
 7 two different divisions, North Division and South  
 8 Division.  
 9 Q. Okay. And that was towards the end of  
 10 2000?  
 11 A. Yes, it was. Yes.  
 12 Q. All right. At some point later on did  
 13 they break it up differently, the field units?  
 14 A. Yes. They disbanded the Southwest  
 15 Division probably around 2004. I had already just  
 16 left when they disbanded.  
 17 Q. All right. What did they -- how was --  
 18 when they re-made it up, what were the divisions?  
 19 A. I believe it was North and South, but they  
 20 came out of different buildings. I believe at that  
 21 time we were losing our building to the City, and  
 22 that's why they relocated us.  
 23 Half the officers in the field unit  
 24 South went to 17th and Montgomery to work North

Page 19

1 Division and then you kind of were able to go down  
 2 into South Philly, Southwest still. Then other  
 3 officers went to G and Hunting Park, around that  
 4 area. They became East and the Northeast  
 5 Divisions.  
 6 Q. Okay. So when was that? What year was  
 7 that?  
 8 A. I would say about the end of 2004  
 9 possibly.  
 10 Q. Now, what was your understanding as to why  
 11 they re-created the divisions?  
 12 A. Well, everybody heard rumors about that  
 13 they -- it wasn't a City-owned building at the  
 14 time. It was a state-funded building, which I  
 15 believed. The City losing the building itself. So  
 16 they had to relocate everybody.  
 17 Q. And am I correct that there -- as a field  
 18 unit member, you could go City wide? I mean, there  
 19 was no boundaries limiting your abilities to go to  
 20 say South Philadelphia or North Philadelphia,  
 21 correct?  
 22 A. Yeah. As long as you were able to  
 23 articulate why you were going into another  
 24 division, our supervisors let us go anywhere we

Page 20

1 wanted to go.  
 2 Q. And am I correct that the two divisions --  
 3 after it was broken up the two divisions would work  
 4 together in certain cases?  
 5 A. Yes.  
 6 Q. Okay. When they reconstructed the  
 7 divisions, did they also change the manpower? In  
 8 other words, if you were in the South Division and  
 9 working with a certain set of officers, did you  
 10 work with a new set of officers when they  
 11 re-created it and made it the North Division and  
 12 the East Division?  
 13 A. I wasn't there at the time. I was  
 14 detailed out.  
 15 Q. Okay. When were you detailed out?  
 16 A. I believe it was August 14, 2004.  
 17 Q. Okay. So when they re-created the  
 18 divisions, you were detailed out?  
 19 A. Yes.  
 20 Q. All right. So is it fair to say that you  
 21 were in the narcotics field unit from the end of  
 22 2000 to 2004?  
 23 A. Yes.  
 24 Q. Okay. Where were you detailed out to?

5 (Pages 17 to 20)

<p style="text-align: right;">Page 21</p> <p>1 A. Alcohol, Tobacco, Firearms and Explosives.      2 Q. How long were you there for?      3 A. I'm still there.      4 Q. That's federal?      5 A. Yes, it is.      6 Q. When you say "detailed out," was that --      7 that's not a lateral move, is it?      8 A. No. I'm on the task force. So I'm still      9 a Philadelphia Police Officer, but I'm on a federal      10 task force.      11 Q. And who pays you?      12 A. The City.      13 Q. The City?      14 A. Yes. The police department.      15 Q. Am I correct that there's different      16 officers on the ATF, right?      17 A. Yes.      18 Q. The different officers on the ATF, some      19 are from Philadelphia Police Department and some      20 are from the feds? There are different officers      21 that create that division?      22 A. Task force, yes.      23 Q. So let's -- I want to focus on your -- the      24 period of time that you served as a field unit</p>	<p style="text-align: right;">Page 23</p> <p>1 transcripts.      2 Q. Okay. When you say "the transcripts,"      3 which transcripts?      4 A. From the preliminary hearing, the notes      5 from the suppression hearing and the trial.      6 Q. Okay. Now, did you have any discussions      7 -- and you don't have to tell me what the      8 discussions are -- but, obviously, you had      9 discussions with the City Solicitor --      10 A. Yes.      11 Q. -- with regards to this case?      12 A. Yes.      13 Q. All right. Did you have any discussions      14 with anyone else other than your attorney with      15 regards to the circumstances of the Torain case?      16 A. Yes, I did.      17 Q. Who you have discussions with?      18 A. I believe Attorney Joseph Grogan.      19 Q. Santarone? Joseph Santarone?      20 A. Is it Santarone?      21 MR. BRIGANDI: Are you talking about      22 an attorney that was at the meeting?      23 THE WITNESS: Yes.      24 MR. BRIGANDI: Santarone.</p>
<p style="text-align: right;">Page 22</p> <p>1 member.      2 A. Sure.      3 Q. Officer, do you recall the Kareem Torain      4 case?      5 A. Yes, I do.      6 Q. Okay. This is what I wanted to ask you      7 before we get started into the specifics of the      8 case. Did you have an opportunity prior to today's      9 testimony to review any documents with regards to      10 the Kareem Torain case?      11 A. Yes, I did.      12 Q. All right. When did you review those      13 documents?      14 A. Mostly within the last couple days. I      15 also reviewed it once I received the letter from      16 the City Solicitor's office.      17 Q. Okay.      18 A. I brought up the PARS and looked it over.      19 Q. Fair enough. Do you recall what you      20 reviewed?      21 A. Yes. I reviewed the PARS report, which is      22 the arrest report, the 49.      23 Q. Okay.      24 A. And within the last couple days, the</p>	<p style="text-align: right;">Page 24</p> <p>1 THE WITNESS: Sorry. Santarone.      2 Sorry about that.      3 BY MR. PILEGGI:      4 * Q. What was the subject of the discussions?      5 MR. BRIGANDI: Well --      6 MR. PILEGGI: You waived it.      7 MR. BRIGANDI: No. We have a joint      8 defense agreement.      9 MR. PILEGGI: You can have a joint      10 defense agreement all you want. He      11 doesn't represent them.      12 MR. BRIGANDI: No. That's      13 privileged.      14 MR. PILEGGI: I would disagree. You      15 can put that on the record.      16 MR. BRIGANDI: I'm going to order      17 him not to answer that. That's      18 privileged.      19 MR. PILEGGI: Mark that record.      20 Mark the record.      21 BY MR. PILEGGI:      22 Q. All right. So at the time of the      23 discussion, did you have an opportunity to look at      24 the documents also?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. Yes, I did.      2 Q. Okay. Let's go into the case. I'm going      3 -- what I'm going to do is -- I guess the easiest      4 way to do this is to show you -- let's start with      5 the -- by the way, while I'm doing this, you      6 mentioned the PARS report, the 49.      7 Did you have an opportunity to see      8 the affidavit?      9 A. Yes, I did. I'm sorry.      10 Q. All right. Let's do this. Let's start      11 with -- let's mark this.      12 - - -      13 (Whereupon, Exhibit Monaghan-1 was      14 marked for identification.)      15 - - -      16 BY MR. PILEGGI:      17 Q. Officer, you've just been handed what has      18 been marked as Monaghan-1 for identification.      19 First of all, do you know what that      20 is?      21 A. Yes, I do.      22 Q. What is it?      23 A. It's the investigation report, the 49.      24 Q. When you say "49," 7549?</p>	<p style="text-align: right;">Page 27</p> <p>1 probable cause?      2 A. Yes, it is.      3 Q. All right. Now, in this case, and just      4 generally, am I correct that this was a case that      5 involved the issuances and the executions of      6 several affidavits of probable cause, correct?      7 A. Yes.      8 Q. And this was -- there were several      9 individuals arrested, correct?      10 A. Correct.      11 Q. And is it fair to say that at least      12 initially the investigation focused on a narcotics      13 organization? Is that fair to say?      14 A. Fair to say, yes, sir.      15 Q. This wasn't similar to what you would have      16 investigated in the strike force, correct?      17 A. Correct.      18 Q. This was more of a long-term      19 investigation?      20 A. Yes, it was.      21 Q. All right. Now, in the first paragraph --      22 and sometimes I'll read it so it can be clear and      23 other times -- because we're going to attach this      24 to the record.</p>
<p style="text-align: right;">Page 26</p> <p>1 A. 7549, yes.      2 Q. Now, this report -- well, tell me in the      3 scheme of an arrest when this report is created.      4 A. This report is created after the arrest,      5 after the PARS report. We have so many days to get      6 the 49 in.      7 MR. BRIGANDI: Is there a Bates      8 stamp on this?      9 MR. PILEGGI: Yeah. Down at the      10 bottom.      11 MR. BRIGANDI: Okay. Thanks.      12 BY MR. PILEGGI:      13 Q. We'll identify it by Bates stamp. Let's      14 do that. You'll see down at the bottom right-hand      15 corner this is Bates-stamped NFU07423. You don't      16 have to comment on that.      17 A. Okay.      18 Q. Now, Officer, you said this is created      19 after the arrest, correct?      20 A. That's correct.      21 Q. And this is created in anticipation of      22 future litigation, correct?      23 A. That is correct.      24 Q. Is this created after the affidavit of</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Sure.      2 Q. Sometimes I may just ask you generally      3 what the content of what the paragraph says.      4 A. That's fine.      5 Q. It appears that in this first paragraph      6 you received information with regards to an      7 organization that was -- the individuals that were      8 running it was an AI and a Pud.      9 Do you see that?      10 A. Yes, I do.      11 Q. Do you recall -- by the way, I don't know      12 if this was clear. This was -- this investigation      13 was while you were a field unit member, correct?      14 A. Correct.      15 Q. All right. You were the lead investigator      16 on this?      17 A. Yes, I was.      18 Q. What does that mean?      19 A. It means that -- kind of I took over -- it      20 was a job that I initiated. I did the      21 investigation for the job. I was the assigned. So      22 I was -- I had all the paperwork, the PARS reports      23 and the affidavits, the search warrants. That was      24 all under me.</p>

7 (Pages 25 to 28)

<p style="text-align: right;">Page 29</p> <p>1 Q. So you're running the show on this 2 investigation? 3 A. Pretty much, yes. 4 Q. You're the supervisor. 5 Is it part of your duties to insure 6 that whoever is involved in this, whatever other 7 officers are involved in this, are following your 8 directions, correct? 9 A. Correct. 10 Q. Now, it appears that -- from reading this 11 it says that you received detailed information from 12 a confidential source, as well as 19th District 13 officers Ronald Cain and Joseph Goglielmucci? 14 A. Yes. 15 Q. Is that correct? 16 A. That's correct. 17 Q. Do you recall the circumstances? 18 A. Just that they told me about the different 19 houses in the 5600 block of Master Street. 5605, 20 5607, 5609. 21 Q. Who is "they"? 22 A. The two officers, Cain and Goglielmucci. 23 Q. What did the source tell you? 24 A. Just that there's narcotics sales coming</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. So you had used this source before? 2 A. Yes, I had. 3 Q. Okay. Under these circumstances, did that 4 source contact you or did you contact the source 5 after you talked to the two officers? 6 A. Just ran into him one day. 7 Q. Was it after you talked to the two 8 officers? 9 A. Probably about the same time we were in 10 contact with the officers. 11 Q. Was it before or after? 12 A. I don't recall if it was before or after. 13 Q. Did these two officers inform you that 14 this source had given them information in the past? 15 A. I never asked them. 16 Q. So you actually talked to the source 17 independently from talking to the two officers? 18 A. That's correct. 19 Q. Those two officers were not present? 20 A. No, they were not. 21 Q. Did you ask the source if they had any 22 information about Master Street, these locations at 23 Master Street? 24 A. The source told me about Master Street.</p>
<p style="text-align: right;">Page 30</p> <p>1 out of the corner of 56th and Master Street. 2 Q. Do you recall who the source was? 3 A. Just somebody I knew from the neighborhood 4 from when I worked out there. 5 Q. When you say that you worked out there, 6 you worked out there when you were in strike force 7 or worked out there as a narcotics field unit 8 member? 9 A. Worked out there as a uniformed officer. 10 Also when I was in the strike force we were out 11 there also. 12 Q. I see here this was the 19th District. 13 This is where you worked for ten years? 14 A. Yes. 15 Q. Had you ever used this source before in 16 your capacity when you were stationed there in the 17 ten-year period as a patrol officer? 18 A. Just talking to him. 19 Q. Okay. Had they ever provided you 20 information before? 21 A. Yes. 22 Q. When I say "information," meaning about 23 illegal activity? 24 A. That's correct.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. So the source came forward and informed 2 you? 3 A. Yes. 4 Q. And it was right around the same time that 5 these two officers informed you? 6 A. Yes. 7 Q. All right. What did the source tell you? 8 A. That there's a lot of sales going on on 9 the corner of 56th and Master Street. 10 Q. At the corner, but they didn't tell you -- 11 they didn't give you the specific addresses of 12 5605, 5607 and 5609? 13 A. The source didn't, no. 14 Q. All right. Who gave you the name of Al 15 and Pud? 16 A. One of the officers. I'm not sure which 17 one. 18 Q. And did you interview the officers to 19 determine how they knew that? 20 A. It was just general conversation. They 21 were telling me about the different houses. They 22 just asked me to take a look at it if I had a 23 chance. 24 Q. And these were the two officers, 19th</p>

<p style="text-align: right;">Page 33</p> <p>1      District police officers at the time?</p> <p>2      A. Yes, they were.</p> <p>3      Q. All right. So is it fair to say they</p> <p>4      contacted you knowing you were in the field unit,</p> <p>5      knowing that you used to work in the 19th District,</p> <p>6      and told you to take a look at these places?</p> <p>7      A. That's correct.</p> <p>8      Q. Is that why you became the lead</p> <p>9      investigator, because really the job initiated with</p> <p>10     you?</p> <p>11     A. I would say so, yes.</p> <p>12     Q. Who makes that determination as to who's</p> <p>13     going to be the lead investigator?</p> <p>14     A. Well, what I would do is after I would</p> <p>15     talk to the officers, I would go to a supervisor</p> <p>16     and ask the supervisor can I start a job. I'd like</p> <p>17     to look at 56th and Master, in that area.</p> <p>18     Q. And who was that supervisor that you did</p> <p>19     that to in this case?</p> <p>20     A. Sergeant Gessner, Jeannie Gessner.</p> <p>21     Q. Just for the record, Miss Gessner is</p> <p>22     deceased?</p> <p>23     A. I just heard that. I didn't know that,</p> <p>24     yes.</p>	<p style="text-align: right;">Page 35</p> <p>1      you first served the stuff we did a check</p> <p>2      to see, and it came back that she was</p> <p>3      deceased.</p> <p>4      It's a female, correct?</p> <p>5      THE WITNESS: Yes.</p> <p>6      MR. BRIGANDI: Okay.</p> <p>7      BY MR. PILEGGI:</p> <p>8      Q. Now, did you ever make a determination --</p> <p>9      prior to or at the initiation of the investigation,</p> <p>10     did you ever make a determination as to who Al and</p> <p>11     Pud were?</p> <p>12     A. Not at that time, no.</p> <p>13     Q. At any time?</p> <p>14     A. I never found out who they were, no.</p> <p>15     Q. That would have been an important piece of</p> <p>16     information with regards to the investigation,</p> <p>17     correct?</p> <p>18     A. Well, yes, it would have been.</p> <p>19     Q. Okay. Did you attempt to find out who</p> <p>20     they were?</p> <p>21     A. Well, I was hoping that based on the 229s</p> <p>22     that we got that we would have seen -- somebody</p> <p>23     would have gave us a name of Pud, but it never</p> <p>24     occurred.</p>
<p style="text-align: right;">Page 34</p> <p>1      MR. PILEGGI: Is that your</p> <p>2      understanding, Armando?</p> <p>3      MR. BRIGANDI: I got that</p> <p>4      understanding from you.</p> <p>5      MR. PILEGGI: No. I got it from</p> <p>6      you.</p> <p>7      MR. BRIGANDI: I thought you told me</p> <p>8      initially that you thought she was</p> <p>9      deceased.</p> <p>10     MR. PILEGGI: No. You told me that.</p> <p>11     MR. BRIGANDI: I did?</p> <p>12     MR. PILEGGI: Yeah. Why don't we</p> <p>13     find out.</p> <p>14     THE WITNESS: Like I said, I just</p> <p>15     heard that.</p> <p>16     BY MR. PILEGGI:</p> <p>17     Q. You heard it from counsel?</p> <p>18     A. Yes.</p> <p>19     MR. PILEGGI: I thought I heard it</p> <p>20     from counsel, too. Just for the record,</p> <p>21     could you check that out?</p> <p>22     MR. BRIGANDI: Yes.</p> <p>23     THE WITNESS: That's who I got --</p> <p>24     MR. BRIGANDI: Now -- I think when</p>	<p style="text-align: right;">Page 36</p> <p>1      Q. When you say "229s," you mean the</p> <p>2      biographical reports?</p> <p>3      A. Yes.</p> <p>4      Q. That's a report that is created after an</p> <p>5      individual is arrested?</p> <p>6      A. That is correct.</p> <p>7      Q. Am I correct that you would agree that the</p> <p>8      two names would be extremely important later on</p> <p>9      with regards to whether you had at least a</p> <p>10     suspicion to initiate the investigation in the</p> <p>11     first place, correct?</p> <p>12     A. Can you repeat that?</p> <p>13     Q. Yeah. It was a little unclear.</p> <p>14     In other words, obviously, you put</p> <p>15     it in the report because you believed it was an</p> <p>16     important piece of information, correct?</p> <p>17     A. At that time it was, yeah.</p> <p>18     Q. Okay. Did it at any time become an</p> <p>19     unimportant piece of information?</p> <p>20     A. Well, not really, but it wasn't important</p> <p>21     to me because of what we observed in that area.</p> <p>22     Q. Okay. So, in other words, at least from</p> <p>23     the initiation of the investigation it may have</p> <p>24     been important, but after you corroborated what the</p>

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<p style="text-align: right;">Page 37</p> <p>1 source and what the two officers told you, then it 2 became an unimportant -- 3 A. That's correct. 4 Q. Okay. Without going through the whole 5 7549, am I correct that there was a series of three 6 days where you and your fellow officers surveilled 7 what you believed to be several drug transactions? 8 A. That's correct. 9 Q. All right. And, specifically, did you 10 recall seeing any transactions from these -- any of 11 these houses that you've identified, 5605, 5607 and 12 5609? 13 A. Yes. 14 Q. All right. When you say from the houses, 15 what do you mean? 16 A. Money being placed inside properties. 17 Drugs being handed from inside the property outside 18 to one of the dealers. 19 Q. Okay. Did you determine there was any 20 buys made out of the property? 21 A. No, no buys. Everything was done on the 22 porches. 23 Q. Now, just going back to this first 24 paragraph, it says, "5609 West Master is an</p>	<p style="text-align: right;">Page 39</p> <p>1 A. No. It says from the porch area, and that 2 is correct because there was numerous narcotics 3 sales on the porch of 5605. 4 Q. Maybe I was unclear. Okay. So I said 5 from the house, but you did see several 6 transactions from the porch? 7 A. Yes. 8 Q. That was attached to the house, obviously? 9 A. Yes. It was an open porch. 10 Q. I see. And how would that work? You saw 11 the drugs pass from the house to the dealer and 12 then the dealer would sell to the buyer on the 13 porch? 14 A. I would see a package being transferred 15 from inside the house by somebody at the door, 16 which was one of the dealers. He would stand on 17 the porch. Sometimes he would hide the package 18 that he was given on the porch or he would put it 19 on his person. 20 During this time certain 21 individuals, males and females, would come up, 22 brief conversation. They would hand an unknown 23 amount of US currency in exchange for small objects 24 either from the package or what was on his person.</p>
<p style="text-align: right;">Page 38</p> <p>1 abandoned property." 2 At what point did you determine 3 that? 4 A. That's what I was told, that it was 5 abandoned. 6 Q. So everything that you put in this first 7 paragraph was something that was told to you? It 8 wasn't something that you determined later on, 9 correct? 10 A. Correct. 11 Q. All right. And then on -- it says, "5607 12 West Master was being used as a stash house 13 containing marijuana, crack and weapons." 14 Do you see that? 15 A. Yes, I do. 16 Q. That was also told to you? 17 A. Yes, it was. 18 Q. All right. And then, "5605 West Master, 19 the narcotics were sold from the front porch area." 20 Do you see that? 21 A. Yes, I do. 22 Q. All right. And that you later determined 23 was incorrect because you said there was no 24 narcotics sold from any of the units, correct?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. By the way, Officer, I forgot to ask this 2 in the beginning. 3 Did you have any discussions about 4 this case with Officer Reynolds? 5 A. Yes. Yes. 6 Q. What did you discuss with Officer 7 Reynolds? 8 MR. BRIGANDI: I'm going to parse 9 this out. Were they discussions that were 10 at the meeting or were they discussions 11 outside the meeting? 12 THE WITNESS: At the meetings. 13 MR. BRIGANDI: At the meetings I'm 14 going to -- 15 BY MR. PILEGGI: 16 Q. So you never had any discussions outside 17 of the meeting that counsel has instructed you not 18 to discuss with Officer Reynolds? 19 A. Other than just laughing because it's a 20 2001 job. Other than that, that's about it. 21 Q. Why was that funny? 22 A. Well, it happened back in 2001. Now it's 23 coming around to where we have to look over our 24 notes again to re-testify. We were just saying</p>

<p style="text-align: right;">Page 41</p> <p>1       that's a long time, 15, 16 years.      2       Q. I may be obtuse, but I still -- what is      3       funny about that?      4       A. Just that it is a long time.      5       Q. Was it also -- you were aware that the      6       individual that you arrested did 13 years?      7       A. Yes, I was.      8       Q. Was that funny?      9       A. No.      10      Q. When I say "did 13 years," I meant      11     incarcerated for 13 years.      12      A. Yes.      13      Q. Other than that, other than laughing about      14     the age of the job, did you have any other      15     discussions about what -- in other words, what went      16     down on the job?      17      A. Not really.      18      Q. Well, you say "not really."      19      What do you mean?      20      A. Well, I did know that Jeff Walker gave a      21     deposition and different things like that.      22      Q. Did you have an opportunity to see -- to      23     review Jeffrey Walker's deposition?      24      A. No, I did not.</p>	<p style="text-align: right;">Page 43</p> <p>1       other than Mr. Santarone, excluding the Solicitor's      2       office, in that room?      3       A. Yes. The person sitting down at the end.      4       Q. Miss Cortes?      5       A. Miss Cortes.      6       Q. Okay. Anyone else?      7       A. No.      8       Q. Was Officer Reynolds there?      9       A. Yes, he was.      10      Q. Was Officer Liciardello there?      11      A. No, he was not.      12      Q. How about Officer Norman?      13      A. No.      14      Q. Speiser?      15      A. No.      16      Q. Spicer?      17      A. No.      18      Q. Okay. Did you have any discussions with      19     any of those other officers other than Officer      20     Reynolds who I just mentioned?      21      A. No, I did not.      22      Q. Okay. About anything?      23      A. No.      24      Q. So one other thing before we get into the</p>
<p style="text-align: right;">Page 42</p> <p>1       Q. Did anyone tell you what he testified to?      2       A. No.      3       Q. So you have no idea what Jeffrey Walker      4       testified about the particulars of this case or      5       what the contents of the --      6       MR. BRIGANDI: I think -- the      7       objection here is you're getting into now      8       privileged content between conversations      9       between myself and Officer Monaghan.      10      MR. PILEGGI: Well, he didn't say      11     you told him.      12      MR. BRIGANDI: But you're getting      13     into that is what I'm telling you.      14      MR. PILEGGI: Let me ask him.      15      BY MR. PILEGGI:      16      Q. Did counsel inform you what Jeffrey Walker      17     testified to?      18      A. He told me he gave a deposition.      19      Q. And when you say "he," who do you mean?      20      A. Armando.      21      Q. This was during your discussion when Mr.      22     Santarone was in the room?      23      A. That's correct.      24      Q. All right. Was there any other attorneys</p>	<p style="text-align: right;">Page 44</p> <p>1       facts of this case.      2       Am I correct that these at least two      3       days of the three-day investigation were      4       videotaped?      5       A. Yes, they were.      6       Q. Why did you do that?      7       A. Because we were in a search vehicle, which      8       is our search vehicle. It's a van. We were able      9       to videotape. The last two days I videotaped. One      10      that I wanted to tape was on the last day of the      11      takedown, which was the 4th. I wanted to videotape      12      that with the takedown. The other day we were      13      going to do an undercover narcotics with an      14      undercover officer. I wanted to film that.      15      Q. Okay. Well, that was on the first day?      16      A. No. That was on the second day.      17      Q. Okay. You wanted to film that.      18      In other words, you were the one      19     that authorized the videotape?      20      A. Well, being I was the lead investigator,      21     we took a video recorder out with us to videotape      22     it.      23      Q. Why didn't you want to do the first day?      24      A. The first day we went out mostly just for</p>

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<p style="text-align: right;">Page 45</p> <p>1 general information.      2 Q. But am I correct that the general      3 information turned into being very detailed      4 information about several narcotics sales?      5 A. Yes, it did.      6 Q. And individuals coming out of the -- some      7 of the houses and passing drugs and hand-to-hand      8 transactions on the porch and things like that,      9 correct?      10 A. Yes.      11 Q. Okay. You did go out on that first day,      12 and that was January 2, 2001, correct?      13 A. That's correct.      14 Q. And you were out there with your partner      15 Officer Kelly?      16 A. Yes, I was.      17 Q. Shawn Kelly?      18 A. Yes.      19 Q. How long had you worked with Shawn Kelly      20 prior to this investigation?      21 A. Since the first day I got into the field      22 unit. About a year.      23 Q. You said the end of 2000 is when you got      24 in there?</p>	<p style="text-align: right;">Page 47</p> <p>1 District?      2 A. Not all of them.      3 Q. A great deal of them?      4 A. I would say so.      5 Q. Did you know Torain, Kareem Torain, at      6 that time while you were in the 19th District?      7 A. I don't believe so, no.      8 Q. Well, I mean, do you recall -- by the way,      9 let me give you this instruction. If you don't      10 recall something or if you're not sure, make sure      11 the record is clear. Forgive me. I forgot to give      12 you that instruction. Let me rephrase it.      13 Were you aware of Kareem Torain as a      14 player? When I say "player," meaning involved in      15 narcotics while you were in the 19th District.      16 A. No. I wasn't aware of it.      17 Q. Okay. So is it fair to say that prior to      18 this investigation you had no idea who he was?      19 A. That would be fair to say, yes.      20 Q. Maybe you didn't know who he was, but do      21 you think you knew him by if you saw him? In other      22 words, did he seem familiar, his appearance?      23 A. I can't say if I would know or not. I      24 didn't know him.</p>
<p style="text-align: right;">Page 46</p> <p>1 A. Yes.      2 Q. This job was on January 2, 2001.      3 So you weren't there maybe a couple      4 months?      5 A. A couple months, I would say, yeah.      6 Q. All right. Was this your first      7 investigation as a lead investigator?      8 A. No, it was not.      9 Q. You had other ones?      10 A. Yes, I did.      11 Q. So you had been working with Shawn Kelly      12 for about three months; is that fair to say?      13 A. I think a little bit longer.      14 Q. By the way, when you were a 19th -- when      15 you were in strike force, did you work out of the      16 19th District then?      17 A. We were in the 19th. We did jobs in the      18 19, yes.      19 Q. So is it fair to say that you pretty much      20 -- up until this investigation, whatever your      21 position was, you were stationed out of the 19th      22 District? You knew it very well?      23 A. Yes, I did.      24 Q. You knew all the players in the 19th</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. How about any of the other individuals      2 that were arrested on this day? Do you recall any      3 -- knowing any of these people prior to this      4 investigation?      5 A. Not really, no.      6 Q. And there is a list of about ten people,      7 correct --      8 A. Yes.      9 Q. -- in your report? All right.      10 In fact, some of them lived at the      11 addresses? Darnell Delee, who's a 19-year-old      12 black male, lived at 5605 West Master?      13 A. Correct.      14 Q. Anthony Hodges, 5607 West Master, correct?      15 A. Correct.      16 Q. All right. Did you do background checks      17 on these addresses before you were -- or during      18 this investigation?      19 A. Yes, we did.      20 Q. When?      21 A. Probably right before I started the      22 affidavit. I did a real estate check, voter's      23 register check.      24 Q. Other than a real estate check prior to</p>

<p style="text-align: center;">Page 49</p> <p>1       the affidavit, any of the affidavits, did you do      2       real estate checks? In other words, when you got      3       this information from these two officers and a      4       source that there was drug activity out of 5609,      5       5607 and 5605 West Master, did you do any kind of      6       background check on those addresses to see if any      7       of the individuals came up as players?</p> <p>8       A. Other than voters and registration,      9       property registration, no. That was it.</p> <p>10      Q. Okay. So am I correct that you knew that      11     this Darnell Delee or at least the Delee family      12     lived at 5605 West Master?</p> <p>13      A. Not at that time, no.</p> <p>14      Q. All right. All right. So the first day      15     you go out -- one other thing. When you went out      16     each day, you had -- it appears from the report you      17     had a periscope.</p> <p>18      Like the kind in the submarine?</p> <p>19      A. No. What it is is it's a -- you're in a      20     van and you're sitting in the back of the van.      21     It's kind of like a periscope to where on the top      22     of the van there is a vent and there is a mirror,      23     which you're able to focus on what you want to look      24     at. We call it a periscope because you're kind of</p>	<p style="text-align: center;">Page 51</p> <p>1       A. Oh, no.      2       Q. That's what I meant.      3       Why?      4       A. Because of the part of the City you're in      5       and two white officers getting out of that vehicle.      6       Q. In fact, it's actually dangerous, correct?      7       A. I would say so, yeah.      8       Q. So the whole time that you set up      9       surveillance on the first day, on the 2nd, you were      10      inside the van looking through the periscope,      11      correct?      12      A. Through the windows and the periscope,      13      yes.      14      Q. That's what I was going to ask you. When      15      you videotaped, you can't videotape through the      16      periscope, correct?      17      A. Correct.      18      Q. You have to videotape through the front      19      window?      20      A. No. Through the back window if you can,      21      yes.      22      Q. So is it fair to say you can only see what      23      is going on in the back of the van?      24      A. You can see on the side because there is a</p>
<p style="text-align: center;">Page 50</p> <p>1       looking into it and it goes up through the mirror      2       and out.</p> <p>3       Q. I got you. Can you move that around?</p> <p>4       A. Yes, you can.</p> <p>5       Q. So you can see -- can you see 360 degrees?</p> <p>6       A. Yeah. It goes in a full circle.</p> <p>7       Q. Am I correct that Officer Kelly is white?</p> <p>8       A. Yes.</p> <p>9       Q. Is it fair to say that you're in a drug      10      neighborhood, two white guys in a drug      11      neighborhood? It's kind of hard not to stick out,      12      correct?</p> <p>13      A. True. Correct.</p> <p>14      Q. Can't leave your van, can you?</p> <p>15      A. Yes, you can.</p> <p>16      Q. You can?</p> <p>17      A. Yes.</p> <p>18      Q. Without being made?</p> <p>19      A. Well, it all depends on if you're going to      20      drive up when there's a bunch of guys standing on      21      the corner or if you're going to try to drive up      22      and park it real fast without anybody noticing you.</p> <p>23      Q. But, I mean, can you actually emerge from      24      the van?</p>	<p style="text-align: center;">Page 52</p> <p>1       window on the side doors. There is a window on the      2       two back doors.</p> <p>3       Q. So if you had to estimate how much -- what      4       you could videotape, and, again, using 360 as a      5       full circle, how much would you estimate?</p> <p>6       A. Maybe -- if you are able to look out of      7       the front, maybe about 200.</p> <p>8       Q. That's 200 percent, let's say?</p> <p>9       A. Yes.</p> <p>10      Q. So you see several transactions the first      11      day, correct?</p> <p>12      A. Correct.</p> <p>13      Q. We don't have to go through that, but it's      14      fair to say, am I correct, that at no time during      15      that first day did you ever see my client, Kareem      16      Torain?</p> <p>17      A. That's correct.</p> <p>18      Q. Were you able to identify any of the other      19      individuals that day?</p> <p>20      A. No, not at that time.</p> <p>21      Q. Okay. So that first day you said you were      22      just checking it out.</p> <p>23      Were you just checking it out to see      24      if there was general drug sales?</p>

<p style="text-align: right;">Page 53</p> <p>1 A. Correct.      2 Q. In order to corroborate what you've been      3 told through the source and the two officers?      4 A. That's correct.      5 Q. Okay. There were several drug sales,      6 correct?      7 A. Yes, there was.      8 Q. Were you able to link up any of those      9 properties on that first day?      10 A. I believe I had enough for at least one or      11 two of the properties, yes.      12 Q. When you say "enough," you mean enough      13 probable cause that you could have issued a warrant      14 or had a warrant issued and executed at those two      15 properties on that day?      16 A. Yes. That's correct.      17 Q. Why? What did you see that indicated to      18 you --      19 A. I believe it was 5605. The males were      20 standing on the porch of 5605. Darnell Delee and I      21 believe his name was Hodges, first name Anthony,      22 they received an object which I believed to be      23 narcotics coming out from the property. And they      24 sold to numerous males and females coming up to the</p>	<p style="text-align: right;">Page 55</p> <p>1 you have to make sure that they were involved in      2 narcotics transactions.      3 Q. Okay. So you need something that connects      4 them to the property, the drug sales?      5 A. Correct.      6 Q. Okay. And with respect to arresting      7 someone for what you believe to be narcotics      8 transactions, whether they're a seller or a buyer,      9 you would actually have to witness some kind of      10 drug activity --      11 A. Correct.      12 Q. -- between those individuals, correct?      13 A. Yes.      14 Q. Is there a different level of probable      15 cause that you need for an arrest warrant as      16 opposed to a search warrant?      17 A. No, not that I believe.      18 Q. All right. By the way, you cannot --      19 anything short of probable cause you cannot go into      20 a property, correct? You cannot execute a search      21 and seizure warrant?      22 A. Without probable cause, yes.      23 Q. There is some exceptions to that rule?      24 A. There is, yes.</p>
<p style="text-align: right;">Page 54</p> <p>1 porch.      2 Q. Okay. Now, by the way -- I'm sorry. I      3 should have asked you this before.      4 At no time during this whole      5 investigation or prosecution of my client did you      6 ever determine that my client was Al or Pud,      7 correct?      8 A. That's correct.      9 Q. Okay. So you felt at least on that first      10 day that there was sufficient probable cause to hit      11 the houses, correct, not just arrest the dealers      12 who you believed were dealers or buyers, but to      13 also hit the houses?      14 A. I believe so, yes.      15 Q. And there is a distinction, am I correct,      16 between probable cause to issue a search and      17 seizure warrant as opposed to probable cause to      18 arrest somebody, correct?      19 A. Yes.      20 Q. What is the distinction?      21 A. Well, probable cause for a search and      22 seizure you need the individuals either receiving      23 something from inside that property or going in and      24 out throughout the property. To arrest that person</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. What are they?      2 A. Your exception would be like you pull up      3 and you have your dealer in the house -- I mean,      4 he's outside on the porch. He runs into the house.      5 Q. Exigent circumstances?      6 A. Exigent circumstances.      7 Q. Okay.      8 A. Also, you can go into a property if you      9 believe that the drugs are going to be -- which      10 would be exigent circumstances also. They were      11 going to be destroyed and also for your safety.      12 Q. But how do you determine if the drugs are      13 going to be destroyed?      14 A. Well, if the person runs in the house and      15 you're in hot pursuit after them, you believe or      16 you think he's going to flush the drugs or      17 whatever.      18 Q. But am I correct that at that point you      19 would have to have seen this individual engage in      20 some kind of criminal activity in order to chase      21 them into the unit, correct?      22 A. Yes.      23 Q. Any other exceptions to the rule of going      24 into a house and searching without a search</p>

<p style="text-align: right;">Page 57</p> <p>1 warrant?</p> <p>2 A. I don't believe so.</p> <p>3 Q. All right. Am I correct -- let me just</p> <p>4 ask you this.</p> <p>5 Pursuant to your understanding of</p> <p>6 the policies and procedures that you would have to</p> <p>7 have a search warrant other than aside from the</p> <p>8 fact of exigent circumstances in order to go into a</p> <p>9 house and search under any circumstance?</p> <p>10 MR. BRIGANDI: Objection. This</p> <p>11 calls for legal conclusions, but to the</p> <p>12 extent that he knows, he can answer.</p> <p>13 THE WITNESS: I would believe.</p> <p>14 BY MR. PILEGGI:</p> <p>15 Q. Am I correct that aside from the policies</p> <p>16 and procedures, that would be unlawful to go into a</p> <p>17 house and search without a search and seizure</p> <p>18 warrant?</p> <p>19 MR. BRIGANDI: Same objection. You</p> <p>20 can answer.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. PILEGGI:</p> <p>23 Q. Okay. By the way, if there is exigent</p> <p>24 circumstances, can you go in and search the whole</p>	<p style="text-align: right;">Page 59</p> <p>1 to sell to numerous people. Also, we observed</p> <p>2 Migel Moon come out of that property, 5605, and</p> <p>3 sold to a couple males and females on the porch.</p> <p>4 Q. Okay. Now, am I correct that it appears</p> <p>5 that on the first day you saw you were able to</p> <p>6 identify Darnell Delee? Did you identify Delee?</p> <p>7 A. No. I stated we weren't able to ID</p> <p>8 anybody on the first two days.</p> <p>9 Q. Okay. But the second day when you get</p> <p>10 there you see some of the same players, right?</p> <p>11 A. Right.</p> <p>12 Q. But you also see additional people?</p> <p>13 A. That's correct.</p> <p>14 Q. And on that day you see several</p> <p>15 transactions, and at some point you send in Police</p> <p>16 Officer Mitchell to go make a controlled buy,</p> <p>17 right?</p> <p>18 A. Yes, we did.</p> <p>19 Q. Police Officer Mitchell is black?</p> <p>20 A. Yes, he is.</p> <p>21 Q. Did you actually witness that buy?</p> <p>22 A. Yes, I did.</p> <p>23 Q. And he had prerecorded buy money and he</p> <p>24 went and made a controlled buy, came back to you</p>
<p style="text-align: right;">Page 58</p> <p>1 house?</p> <p>2 A. No, you cannot.</p> <p>3 Q. Where can you search?</p> <p>4 A. The immediate area where you located the</p> <p>5 person.</p> <p>6 Q. Okay. Now, let's go to the second day.</p> <p>7 The second day was January 3rd. That's the day you</p> <p>8 also setup surveillance, along with your partner</p> <p>9 Officer Kelly, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. All right. It looks like you setup</p> <p>12 surveillance about 11 a.m.?</p> <p>13 A. Yes, it was.</p> <p>14 Q. All right. And this day you actually have</p> <p>15 the video recorder, correct?</p> <p>16 A. Yes. That's correct.</p> <p>17 Q. And, again, you see a series of what you</p> <p>18 believe to be narcotics transactions?</p> <p>19 A. Yes, we did.</p> <p>20 Q. Anything in particular that you saw that</p> <p>21 came from one of those units that were identified,</p> <p>22 5605, 5607 or 5609 Master?</p> <p>23 A. Yes. Again, we saw Darnell Delee receive</p> <p>24 objects from 5605 Master Street, which he started</p>	<p style="text-align: right;">Page 60</p> <p>1 and he had purchased what looked like four black</p> <p>2 tinted, heat-sealed packets of what you later</p> <p>3 determined to be crack cocaine, correct?</p> <p>4 A. Yes. That's correct.</p> <p>5 Q. And the last statement says, "On that day</p> <p>6 the majority of the observations on 1301 were</p> <p>7 videotaped by Police Officer Kelly and Police</p> <p>8 Officer Monaghan," correct?</p> <p>9 A. Correct.</p> <p>10 Q. All right. What was not videotaped?</p> <p>11 A. Well, the whole time. We were there from</p> <p>12 11 o'clock until about 4:00. You know, off and on.</p> <p>13 The videotape only runs a certain amount of time.</p> <p>14 So we were trying to not secure it, but we were</p> <p>15 trying to keep the battery alive in the video</p> <p>16 recorder.</p> <p>17 Q. Let me ask you this. Did you just try to</p> <p>18 videotape what you believed to be drug</p> <p>19 transactions? In other words, turning off the tape</p> <p>20 or the recorder when you didn't see any activity?</p> <p>21 A. Yes. We videotaped what the properties</p> <p>22 looked like, different things. People coming to</p> <p>23 the corner.</p> <p>24 Q. All right. At any time on that day did</p>

<p style="text-align: right;">Page 61</p> <p>1 you see what you later determined to be Kareem 2 Torain? 3 A. Not that I believe, no. 4 Q. Okay. Did you receive any information 5 that day that -- from any other fellow officers 6 involved in this investigation that Kareem Torain 7 was involved somehow in this organization? 8 A. No, I did not. 9 Q. All right. So let's go to the last day. 10 The last day is January 4th. 11 So you really did it three days, 12 consecutive days; is that correct? 13 A. Yes. That's correct. 14 Q. Do you recall what days of the week they 15 were? 16 A. I believe -- no. I'm going to be guessing 17 if I say. I see here the 3rd was Wednesday. So 18 the 2nd would have been Tuesday and the last day 19 was a Thursday, yes. 20 Q. Just for the record, you have here on 21 1/4/2000. 22 That's incorrect, right? 23 A. Yes, it is. That's a typographical error. 24 Q. It really was 1/4/2001?</p>	<p style="text-align: right;">Page 63</p> <p>1 discovery to get our discovery paperwork. 2 Q. What is the date? 3 A. I think it's ten days. 4 Q. Are you sure? 5 A. I believe it's ten days. I could be 6 wrong. At one point it was ten to get the 7 paperwork in. 8 Q. All right. When you say the rules of 9 discovery, do you mean the Philadelphia Police 10 Department's policies and procedures or is this 11 something that you believe is part of criminal 12 procedures? 13 A. It would be both, but... 14 Q. Okay. 15 (Mr. Popper entered the courtroom.) 16 BY MR. PILEGGI: 17 Q. So your recollection is you got this 18 within ten days? 19 A. I believe it was, yes. 20 Q. So now let's go to the 4th. So the 4th, 21 again, you set up surveillance at approximately 22 1:41. Again, you have the -- I'm sorry. Yeah. 23 Is that when you set up 24 surveillance?</p>
<p style="text-align: right;">Page 62</p> <p>1 A. Yes, it was. 2 Q. Now, do you create this report yourself? 3 A. Yes, I did. 4 Q. When I say "created," I mean do you type 5 it out at all? 6 A. Yes. 7 Q. Do you recall exactly when you did this 8 report? 9 A. I would say no more than a week after the 10 4th. Within a week. 11 Q. Well, is there a date on here? 12 A. There should be. No, I don't see one. 13 Q. You should have had a date on here, 14 correct? 15 A. Yeah. That's correct. 16 Q. Do you know any reason why you left out a 17 date? 18 A. No. Sometimes we date next to our names. 19 Some days if we get the paperwork in late we don't 20 date it. So I don't recall why we didn't date it. 21 Q. Am I correct pursuant to the policies and 22 procedures you're required to have this report 23 submitted within a certain amount of time, correct? 24 A. That's correct, because of the rules of</p>	<p style="text-align: right;">Page 64</p> <p>1 A. It was before that. I didn't put no date 2 on that day. I think it was like about 1:30 we set 3 up by the time we were able to park. 4 Q. Were you rolling the camera or the video 5 nonstop on that day or did you also stop to try to 6 preserve the battery? 7 A. We also stopped it. 8 Q. So do you think you stopped the tape and 9 missed what you would have -- what you believed to 10 be criminal activity? In other words, did you not 11 film some of the criminal activity that you 12 personally observed? 13 A. Yeah. We could have missed it, yes. 14 Q. Who was working the video that day? 15 A. Both of us. Me and Shawn Kelly. 16 Q. You would alternate? 17 A. Yes. 18 Q. Whoever was not working the videotape, 19 what would be their responsibilities? 20 A. Make sure nobody was coming near the van 21 for our security reasons. 22 Q. All right. It's fair to say that you were 23 concerned at least on the third day that somebody 24 had made you? When I say "made you," meaning that</p>

<p style="text-align: right;">Page 65</p> <p>1       they had identified you as police officers, 2       correct? 3           A. No. 4           Q. Why did you have somebody watching out to 5       make sure nobody came to the van? 6           A. Well, we always did even on the first day 7       and the second day. You make sure nobody is 8       messing with the van, nobody is coming over to 9       check out the van. 10          Q. Am I correct that you do everything in 11       pairs? I mean, if nothing else, for security 12       reasons you and Officer Kelly as your partner, 13       whatever was conducted, whatever you did, whether 14       it was surveillance or anything else, you would do 15       together, correct? 16           A. This particular job or every job? 17           Q. Well, let's just keep with this particular 18       job. 19           A. Okay. On this particular job, yes. 20           Q. Okay. 21           (Mr. Fazlollah entered the 22       courtroom.) 23          BY MR. PILEGGI: 24          Q. In fact, it would be impermissible for you</p>	<p style="text-align: right;">Page 67</p> <p>1           A. I saw when -- it was facing northbound 2       when it got to the corner. 3           Q. So when you were looking out the back of 4       your van, the car would have been coming towards 5       the back of the van -- 6           A. Correct. 7           Q. -- or would it have been going the other 8       way? 9           A. No. Towards the back of the van. 10          Q. Okay. Was that videotaped? 11          A. I don't recall. 12          Q. Well, you reviewed the transcripts, 13       correct? 14           A. Correct. 15          Q. And you know that during one of the 16       proceedings you actually gave a blow-by-blow 17       account of what happened on the videotape, correct? 18          A. Yes. That is correct. 19          Q. Do you recall testifying that you -- from 20       the videotape when the videotape was playing that 21       you saw this vehicle approach the intersection? 22          A. I recall testifying to the video, but I'm 23       not sure exactly what all I testified to. 24          Q. All right. Do you recall that you could</p>
<p style="text-align: right;">Page 66</p> <p>1       to do something on your own, right, without your 2       partner? When I say "something," I mean take some 3       kind of police activity, if nothing else for the 4       safety of the officers, right? 5           A. They always wanted us to work in pairs, 6       yes. 7           Q. You certainly would not conduct a search 8       alone, correct? 9           A. That's correct. 10          Q. All right. So on this day you set up 11       surveillance. You don't know who's working the 12       camera, but at some point it says that you observed 13       a green Bonneville with a PA tag DKC3310. It says 14       it's registered to Carolyn Gillis. It traveled 15       northbound on 56th Street to the intersection of 16       56th and Master, correct? 17           A. Yes. 18           Q. All right. Now, you're looking out the 19       back of the van. You actually saw the car pull up 20       traveling northbound on 56th Street until it got to 21       the intersection of 56th and Master? 22           A. Saw it come to the intersection, yes. 23           Q. Okay. But you didn't see it traveling 24       northbound?</p>	<p style="text-align: right;">Page 68</p> <p>1       not identify who the driver of that vehicle was? 2           A. Yes. 3           Q. All right. At what point did you become 4       aware that it was registered to a Carolyn Gillis? 5           A. Probably later on that day after we got 6       back to the headquarters. 7           Q. When you say "probably," I don't want you 8       to guess. 9           A. After he was arrested and we got 10       everything back to headquarters. 11           Q. When you say "he" was arrested -- 12           A. Torain. 13           Q. Did you know Torain was connected to this 14       car at the time of your surveillance? 15           A. No, I did not. 16           Q. Did you determine at any point that Torain 17       was connected to this car after he was arrested? 18           A. Yes, that he was driving the vehicle. 19           Q. Well, you said -- all right. Fair enough. 20           Did you ever make a determination 21       that Torain had some kind of relationship with 22       Carolyn Gillis, the owner of this vehicle, after he 23       was arrested? 24           A. No, I did not.</p>

<p style="text-align: right;">Page 69</p> <p>1 Q. Okay. Why did you put it registered to 2 Carolyn Gillis? 3 A. Because that's who the car came back to, 4 the tag. 5 Q. Was she arrested? 6 A. No, she was not. 7 Q. Why? 8 A. I never seen her do anything. 9 Q. Did you ever see Torain do anything? 10 A. I didn't, no. 11 Q. Okay. Did anyone tell you that Carolyn 12 Gillis did anything? 13 A. No. 14 Q. Okay. Did anyone tell you that Torain did 15 anything? 16 A. Yes. 17 Q. When I say "anything" I'm talking about 18 illegal activity, of course. 19 A. Not at this time, no. 20 Q. At any time? 21 A. Other than what Jeff told me what was 22 going on. 23 Q. When you say "Jeff," you're referring to 24 Jeffrey Walker?</p>	<p style="text-align: right;">Page 71</p> <p>1 report -- "At this time Delee who was standing on 2 the steps at 5605 Master made a hand gesture toward 3 the Bonneville and yelled yo." At this time the 4 Bonneville -- "yo." 5 Did you actually witness that? 6 A. Yes, I did. 7 Q. You did? 8 A. Yes. 9 Q. Do you know if that was on the videotape? 10 A. I'm not sure. 11 Q. Okay. You actually heard him say "yo"? 12 A. Yes. 13 Q. Now, am I correct -- again, you reviewed 14 your testimony during the preliminary hearing and 15 the trial as well as the motion to suppress. 16 Am I correct that you testified that 17 you could not hear anything on the street from 18 inside that van? 19 A. No. Incorrect. 20 Q. You could? 21 A. Yes, we could. 22 Q. Okay. Am I correct the video did not have 23 any sound? 24 A. Yes, you're correct.</p>
<p style="text-align: right;">Page 70</p> <p>1 A. Yes, I am. 2 Q. And when did Jeffrey Walker tell you that 3 Torain did something illegal? 4 A. When he first pulled up he said he saw -- 5 well, Delee he saw getting out of the vehicle, 6 putting a clear baggie in his pocket. That's all 7 he said when he first pulled up behind him on Ithan 8 and Master. 9 Q. When who first pulled up? 10 A. Jeff pulled behind Torain in the vehicle. 11 Q. How did you know Torain was in the 12 vehicle? 13 A. Well, the driver of the vehicle. I'm 14 sorry. 15 Q. I'm going to ask you again. How do you 16 know -- at what point did Jeffrey Walker tell you 17 that Torain did something illegal? He didn't tell 18 you then because you didn't know who the driver 19 was, right? 20 A. No. 21 Q. For all you knew the driver was Carolyn 22 Gillis? 23 A. For all I knew at that time, yes. 24 Q. Now, it goes on to say -- and this is your</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. But you distinctly heard "yo." Okay. 2 Were you looking out the front 3 window or the back window or the periscope at that 4 time? 5 A. I don't recall, but I was able to look 6 out. 7 Q. Okay. What did "yo" mean to you? I mean, 8 why was that significant? 9 A. Well, it could mean anything. It was 10 significant because he yelled towards the vehicle. 11 Q. Okay. So. He said "yo." 12 Was that illegal? 13 A. No, not at all. 14 Q. Okay. What was the significance within 15 the context of your investigation that he yelled 16 "yo" and made a hand gesture towards the 17 Bonneville? 18 A. The Bonneville then went to Ithan Street, 19 made a turn and stopped. 20 Q. But you did not witness that, correct? 21 A. I witnessed it stopped, yes. 22 Q. But did you not witness -- did you see 23 Delee get into the car? 24 A. Yes.</p>

<p style="text-align: right;">Page 73</p> <p>1 Q. Could you see inside the car?      2 A. No.      3 Q. It was out of your view at that time,      4 correct?      5 A. Yes. That's correct.      6 Q. Okay. So although you saw him get in the      7 car, I'm assuming he got in the car when it      8 stopped, right?      9 A. That's correct.      10 Q. You just said you couldn't see?      11 A. He might have pulled up. I don't know.      12 Q. What do you mean? It might have pulled up      13 where?      14 A. He pulled away out of my view for a      15 second. It was out of my view once he got in.      16 Q. So it's your testimony that once he got      17 in, you see him yell "yo," make a hand gesture.      18 The car pulls over and parks. You see Delee get in      19 and then it pulled off and it was out of your view?      20 A. He double-parked right on Ithan Street      21 right at the corner. Delee got in and then it was      22 out of my view.      23 Q. Where did the car go?      24 A. Somewhere on Ithan Street.</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. Did you see Jeff Walker come around the      2 corner?      3 A. Yes.      4 Q. How long was it after you went over police      5 radio?      6 A. About a minute. He must have been in the      7 area, close to the area.      8 Q. In fact, you were supervising Jeffrey      9 Walker that day, correct?      10 A. No. I wouldn't say -- I'm not a      11 supervisor.      12 Q. Well, you were the lead investigator? You      13 were directing him and the other officers that were      14 on your team investigating this drug organization?      15 You were the one directing the show, correct?      16 A. At that time, yeah, I would say so.      17 Q. All right. Why didn't you just tell Jeff      18 Walker to -- why did you go over police radio?      19 A. Because that's our contact, that we were      20 in contact through police radio from our      21 surveillance van.      22 Q. So if you wanted to talk to other members      23 of your team that day, you would have to go over      24 police radio and they would contact a particular</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. Okay. Did anyone witness -- any officer      2 involved in this investigation witness where that      3 car went and what happened in the car, if anything?      4 MR. BRIGANDI: Objection. I don't      5 know how he can answer as to any officer.      6 MR. PILEGGI: Yeah. Any officer      7 with the investigation.      8 MR. BRIGANDI: If you know.      9 MR. PILEGGI: He was supervising      10 them.      11 MR. BRIGANDI: If you know the      12 answer.      13 THE WITNESS: I was later told by      14 police radio that Jeff Walker -- I asked      15 somebody to see what this car is doing and      16 he pulled onto the block.      17 BY MR. PILEGGI:      18 Q. I don't understand. You heard from radio      19 that you asked Jeff Walker to follow the car?      20 A. No. I went over police radio and gave out      21 the description of the car, the location of where I      22 believed it was at that time for somebody to come      23 to see where the car is. That's when Jeff came      24 around the corner and onto Ithan Street.</p>	<p style="text-align: right;">Page 76</p> <p>1 officer?      2 A. No. We're in a secured surveillance van,      3 and it was just our group that was out there using      4 this secured surveillance van.      5 Q. In other words, when you use the radio      6 with your group, would it just go to the group      7 members?      8 A. Yes.      9 Q. So you went over the police radio, and it      10 just so happened that Jeffrey Walker happened to be      11 the closest?      12 A. Yes.      13 Q. And then he showed up.      14 Did he drive past you, Jeffrey      15 Walker?      16 A. Yes, he did.      17 Q. Okay. And you recall it about a minute      18 after you went over radio?      19 A. A minute after I talked to him, yes.      20 Q. Do you know what he was driving that day?      21 A. An unmarked vehicle. I'm not sure. We      22 had so many types of vehicles.      23 Q. That's fine. Did you see him follow that      24 vehicle?</p>

<p style="text-align: right;">Page 77</p> <p>1 A. No, I did not.      2 Q. And did you have a discussion with Officer      3 -- former Officer Walker about what happened with      4 that vehicle after you saw him a minute later?      5 A. Yes, I did.      6 Q. What did he say?      7 A. He followed the vehicle -- well, he said      8 that he observed Delee get out and put an object, a      9 clear baggie, into his jacket pocket.      10 Q. Where? When?      11 A. When he was getting out of the passenger      12 side of the vehicle.      13 Q. Okay. Where? On Itchan Street?      14 A. On Itchan. I'm sorry.      15 Q. How far away was it from when it went out      16 of your view?      17 A. I never asked him.      18 Q. Okay. By the way, why did you want      19 someone to follow this car in particular?      20 A. Because we were getting ready to do our      21 takedowns and I wanted to make sure we had      22 everybody who we wanted to get ID'd or to stop. At      23 that time being Delee -- at that time I wasn't sure      24 if he was a buyer or a seller.</p>	<p style="text-align: right;">Page 79</p> <p>1 A. Yeah. If you're going to do a job with a      2 buyer and you stop a buyer during your      3 investigation -- now, I knew this was going to be a      4 couple-day investigation. If I would have stopped      5 any buyers on the first day, our whole      6 investigation would have been jeopardized.      7 Q. Come on, Officer. You do this all the      8 time, long-term investigations. Buyers are      9 arrested all the time, aren't they?      10 MR. BRIGANDI: Objection. You're      11 arguing with the witness.      12 Do you have a question?      13 BY MR. PILEGGI:      14 Q. Am I correct?      15 A. Some jobs, yes. Some jobs, no.      16 Q. In fact, you get a uniformed officer to      17 make the stop, correct?      18 A. Correct.      19 Q. So that you don't jeopardize the      20 investigation?      21 A. It's -- it has been done, yes.      22 Q. All right. At this time when you saw the      23 Bonneville drive up and you couldn't identify the      24 driver, did you believe that driver was part of</p>
<p style="text-align: right;">Page 78</p> <p>1 Q. Okay. But the prior two days you must      2 have seen -- and I'm just estimating -- 20 to 30      3 buys, right?      4 A. Close to it, yes.      5 Q. Many of them you filmed?      6 A. Yes.      7 Q. You never followed one buyer, correct?      8 A. We did have a -- which we believed on the      9 first day to be a buyer, but he was lost in the      10 area of the 4700 block of Merion.      11 Q. Who followed that buyer?      12 A. Somebody from our unit. I'm not sure      13 exactly who it was.      14 Q. Okay. Other than that, the 19 or 29 other      15 buys that were made, you did not ever instruct any      16 of your members of your team to follow that car and      17 arrest that individual?      18 A. No. That's correct.      19 Q. Why?      20 A. I can't tell you. I don't know.      21 Q. Well, you were running the show?      22 A. Yes, I was.      23 Q. Was it an important to -- buyers are      24 arrested all the time, aren't they?</p>	<p style="text-align: right;">Page 80</p> <p>1 this organization, in other words, a seller?      2 A. At that time I wasn't sure what he was.      3 Q. You were not sure?      4 A. Yes.      5 Q. At what point did you make a determination      6 that whoever was driving this Bonneville was part      7 of this organization; a seller, a player, however      8 you want to term it?      9 A. After I was instructed by Jeff Walker that      10 three of my individuals who were on the corner went      11 to the location of 1628 North 55th Street and      12 entered after Torain let them into the property.      13 Q. So Jeffrey Walker informed you that three      14 individuals who we had previously identified as      15 Delee, Diggs and Tillman, these were individuals      16 that you surveilled for two days straight seeing      17 them involved in drug activity, correct?      18 A. Correct.      19 Q. These three individuals -- well, you were      20 informed by Jeffrey Walker that these three      21 individuals were leaving Master Street and went      22 over to 1658 North 55th Street, correct?      23 A. I informed Jeff that they were leaving the      24 area, to keep an eye out in case the vehicle pulled</p>

<p style="text-align: right;">Page 81</p> <p>1 up to that location.      2 Q. Okay. Why did you come up with 55th      3 Street?      4 A. What --      5 Q. You told Jeff Walker to keep an eye out      6 for a vehicle in case it goes to 1658 -- 1628 North      7 55th Street, right?      8 A. Um-hmm.      9 Q. Where did you get 1628 North 55th Street?      10 A. North 55th Street.      11 Q. Yeah. How did you come up with that      12 address?      13 A. Because I know he was looking -- he was      14 keeping a surveillance on that property, and we      15 overheard Delee on the corner -- Officer Kelly      16 overheard it, who later relayed it to me, that      17 Delee just mentioned to somebody that he -- the      18 person in -- Kareem in the Bonneville or Kareem      19 only had one bundle and he was going to get the      20 rest and he was going to call the pay phone. A      21 short time later is when Delee went to the pay      22 phone, got in the vehicle with the two other males      23 who left the area.      24 Q. This is all information that Officer Kelly</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. Why?      2 A. Well, I didn't see him do anything. So I      3 -- all I knew is he went to Conestoga Street first      4 and was in Conestoga Street for about 20 minutes.      5 If you want me to give you the address, it's on the      6 paperwork.      7 Q. It's okay.      8 A. I was instructed he went to Conestoga      9 Street. After about 20 minutes he left Conestoga      10 Street, which I later found out to be his home      11 address. He went to the property of 55th Street.      12 Q. But my question was different. My      13 question was do you believe you had probable      14 cause --      15 MR. BRIGANDI: Mike, he answered      16 your question.      17 MR. PILEGGI: No, he did not.      18 MR. BRIGANDI: Yes, he did.      19 MR. PILEGGI: I'll ask it again.      20 Maybe he misunderstood.      21 MR. BRIGANDI: Maybe you      22 misunderstood him.      23 MR. PILEGGI: Okay.      24 BY MR. PILEGGI:</p>
<p style="text-align: right;">Page 82</p> <p>1 told you he overheard?      2 A. Yes. That's correct.      3 Q. Did you actually personally observe Delee      4 go to a pay phone?      5 A. Yes, I did.      6 Q. Did you film it?      7 A. I don't believe we were filming at that      8 time, no.      9 Q. Why? Wasn't that important?      10 A. Yes, it was, but we just didn't have a      11 chance to get the video up because of how fast it      12 was.      13 Q. Okay. So at the point that those      14 individuals left the area to go to 1628 North 55th      15 Street, am I correct that you believe that whoever      16 was driving that green Bonneville was a player?      17 A. At that time, yes.      18 Q. You did?      19 A. Yes, I did.      20 Q. Okay. And am I correct that at that point      21 you would have had the sufficient probable cause to      22 arrest that individual who was driving the green      23 Bonneville?      24 A. Not at that time, no.</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. So is it your testimony -- let me ask you.      2 Do you feel that you have the probable cause when      3 these individuals left the area, the three      4 individuals, Diggs, Delee and Tillman, you believe      5 you had the probable cause to arrest whoever was      6 driving that green Bonneville?      7 A. Like I stated, no, not at that time.      8 Q. Okay. Do you believe or did you base the      9 probable cause to arrest Torain solely on Jeffrey      10 Walker's information provided to you?      11 A. That's correct.      12 Q. With everything? The whole job?      13 A. With Torain?      14 Q. Yes.      15 A. Just what Torain did, yes.      16 Q. So you believe that you had the probable      17 cause to get a search warrant to search 1628 North      18 55th Street based solely on what Officer Walker      19 told you?      20 A. No. It was based on us having the keys      21 after Torain was stopped. We had -- two sets of      22 keys was recovered from Torain for the front door      23 of the property and also the door that opened up      24 the second apartment.</p>

<p style="text-align: center;">Page 85</p> <p>1 Q. So? Why is the key probable cause?      2 A. Well, it's not probable cause, but we had      3 probable cause based on that we thought that if --      4 the time Torain was taken down on the arrest and      5 the lapse between the time Officer Walker had left      6 1628 North 55th Street and the time we came back,      7 which was about 20 to maybe half hour later to that      8 property. We were worried that drugs were going to      9 be destroyed. We didn't know who was in the      10 property at the time.      11 Based on using the two keys to      12 secure the evidence, if there was evidence in the      13 house, that we were not aware of at that time.      14 Q. Okay. Just so I'm clear with this, you're      15 saying that you based the probable cause to get a      16 search warrant for 1628 North 55th Street based on      17 the fact of the time period from when these      18 individuals left or Torain left the area and came      19 back 20 minutes later and the fact that after      20 Torain was arrested you obtained keys to fit the      21 door of that property? That's your sufficient      22 probable cause?      23 A. Yes, it is.      24 Q. And is there anything else that gave you</p>	<p style="text-align: center;">Page 87</p> <p>1 notes?      2 A. Yeah. Well, I have a copy of the PARS and      3 I just jotted down some notes that was on the PARS      4 report so I knew about what happened this day.      5 Q. Well, when you were at trial and you      6 testified at trial, you were specifically asked      7 whether you had notes?      8 A. Yes, I was.      9 Q. A summary sheet? Do you believe there was      10 a summary sheet created with this job?      11 A. No. I'm not sure if there was a summary.      12 I think I was referring to -- my notes was the 49,      13 I believe, I was reading from.      14 Q. Well, you said that you didn't have the      15 notes. They would have had the 49, correct?      16 A. Yes, but I didn't have them while I was up      17 on the stand.      18 Q. Do you recall writing down what Jeffrey      19 Walker informed you with regards to Torain's part      20 of this case in your notes?      21 A. No. Just what Jeffrey told me when we      22 went back to do the arrest paperwork.      23 Q. Where does it say in this report that      24 Torain let these three individuals in the front</p>
<p style="text-align: center;">Page 86</p> <p>1 the probable cause? Anything else in that formula?      2 A. No, not that I put down on my paperwork.      3 No.      4 Q. Okay. So, again, let's break it down.      5 So your probable cause to arrest      6 Torain and prosecute Torain was based on the fact      7 that DeLee, Diggs and Tillman left the area where      8 you were surveilling and came back 20 minutes later      9 and they were seen by Officer Walker coming out of      10 1628 North 55th Street, correct?      11 A. No. After DeLee, Tillman and Diggs left      12 56th and Master, within a few minutes they pulled      13 up to the area of -- I believe it would be 55th      14 Street to where Jeff Walker observed them get out      15 of their vehicle and meet Torain at the front door      16 who -- Torain let them in. They were in there for      17 a couple minutes. If I can refer to my notes, I'm      18 going to say ten minutes maybe. I'm not positive.      19 Q. When you say you're referring to your      20 notes, you're referring to the report?      21 A. The report, yes.      22 Q. By the way, do you have notes on this job?      23 A. Not on me, no.      24 Q. Well, do you have them? Did you make</p>	<p style="text-align: center;">Page 88</p> <p>1 door?      2 A. On page number three at the top.      3 Q. Okay. Read the Bates stamp page.      4 A. Yes. It's 07425.      5 Q. Okay.      6 A. All right. At approximately 2:05 p.m.      7 police observed DeLee answer the pay phone on the      8 northwest corner of 56th and Master Street. jogged      9 to the Buick. Mentioned on 1/3 -- which should be      10 2001. I have 2000. Typographical error. Along      11 with Diggs and Arthur Tillman. Police Officer      12 Walker followed them to 55th and Hunter Street      13 where he was actually in a stationary position I      14 later found out. They parked the car on 55th      15 Street. All three males exited the Buick and were      16 admitted into 6828 South 55th by Torain.      17 Q. Now, let me ask you a question. Am I      18 correct that Torain was not identified at this      19 point?      20 A. No, he was not.      21 Q. Okay. At most, he was identified -- or      22 was he even identified as the driver of the      23 Bonneville vehicle?      24 A. Yes, he was.</p>

<p style="text-align: right;">Page 89</p> <p>1 Q. He was? Where is that?      2 A. It's not on there, but --      3 Q. It's not on where?      4 A. No paperwork at this time because Officer      5 Walker observed him get out of that Bonneville.      6 Q. Okay. How do you know it's not on this      7 paperwork?      8 A. It could be somewhere. Police Officer      9 Reynolds also observed him exit -- one second.      10 Q. Go ahead. You can read that.      11 A. Yeah. Observed Torain exit. He exited      12 westbound on Hunter Street in the Bonneville.      13 Police Officer Reynolds saw him driving the      14 Bonneville.      15 Q. So Police Officer Reynolds was already      16 there, correct?      17 A. He went up to Conestoga Street, yes.      18 Q. Well, how did he know to go to Conestoga      19 Street if he wasn't following them?      20 A. Because that's where -- oh, let's see.      Let me go back. On 7424, last paragraph, middle.      22 Q. If you could read it.      23 A. I'm going to. "Delee exited after      approximately two to three minutes and ran back to</p>	<p style="text-align: right;">Page 91</p> <p>1 I thought it was Reynolds who      2 followed him to Conestoga?      3 A. No. Reynolds went to Conestoga Street,      4 but Reynolds saw him exit Conestoga and get into      5 the Bonneville and go back -- and go to the area of      6 1600 North 55th Street.      7 Q. Okay. So Walker followed him back to      8 Conestoga and then Reynolds picked him up and      9 followed him from Conestoga to North 55th? Is that      10 the testimony?      11 A. To the area of 55th and Hunter to the      12 corner.      13 Q. Okay. Is that correct, though?      14 A. Yeah. Correct.      15 Q. All right. So were they working in      16 conjunction, do you know?      17 A. Yes. They were separate vehicles and they      18 were working as my roving surveillance vehicles.      19 Q. So is it fair to say that it was Reynolds      20 who observed Torain going to 55th Street?      21 A. I believe at that time that both Reynolds      22 and Walker both observed him go into 55th Street.      23 Q. What are you basing that belief on?      24 A. Because they both were there.</p>
<p style="text-align: right;">Page 90</p> <p>1 the corner of 56th and Master. The Bonneville who      2 was being operated by a black male, who I later      3 ID'd as Kareem Torain, was followed back to 1621      4 West Conestoga Street by Police Officer Walker at      5 that time."</p> <p>6 Q. Okay. So I just want to read this back.      "The Bonneville who was being operated by a black      male" -- is it ID'd?</p> <p>7 A. "Later ID'd as."</p> <p>8 Q. Who ID'd him as Kareem Torain?</p> <p>9 A. Police Officer Reynolds when he was      arrested.</p> <p>10 Q. Okay. So he didn't know the identity when      he went into 1621 North Conestoga Street?</p> <p>11 A. No.</p> <p>12 Q. How do you know?</p> <p>13 A. Well, I don't know for sure if he knew of      him before, but I never knew him.</p> <p>14 Q. Well, it says here -- it says that the      Bonneville who was being operated by a black male,      later ID'd as Kareem Torain, was followed back to      1621 North Conestoga by Police Officer Walker where      police observed Torain exited his vehicle and      enters 1621 Conestoga. I'm confused.</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Okay. How do you know who observed what?</p> <p>2 A. Well, I know Police Officer Reynolds      observed him go into that property.</p> <p>3 Q. Okay. That was my question. Is it fair      to say --</p> <p>4 A. Are we talking about Conestoga or 55th      Street?</p> <p>5 Q. No. We're talking 55th Street.</p> <p>6 Am I correct that it was Police      Officer Reynolds who observed Torain go into 55th      Street initially?</p> <p>7 A. That's what was relayed back to me.</p> <p>8 Q. And then you called Officer Walker and      told him to keep his eye out for Delee, Tillman and      Diggs because you thought they were going to go to      55th Street, correct?</p> <p>9 A. Yeah. Well, it wasn't just Jeff Walker      that I notified. It was my roving surveillance.      Whoever could come pick up the vehicle -- to come      down to the area and try to pick up the vehicle.</p> <p>10 Q. But your understanding, based on the      paperwork that you submitted, it was actually      Officer Reynolds who saw Torain go in and it was      also actually both officers who would have got the</p>

<p style="text-align: right;">Page 93</p> <p>1       radio call to expect this vehicle that was coming 2       down to 55th Street, correct?</p> <p>3       A. Correct.</p> <p>4       Q. Which officer did you get the information 5       from that Torain went into 55th Street to even tell 6       them to expect a vehicle driven by Delee, Tillman 7       and Diggs?</p> <p>8       A. Brian Reynolds.</p> <p>9       Q. Brian Reynolds?</p> <p>10      A. Yes.</p> <p>11      Q. So wasn't that part of the probable cause 12     consideration, the information, not just that 13     Jeffrey Walker gave you, but what Officer Reynolds 14     gave you?</p> <p>15      A. Yes.</p> <p>16      Q. In fact, wasn't that the most important 17     piece of getting the warrant to go into 55th 18     Street, 1628 North 55th Street, was the fact that 19     Officer Reynolds reported to you that he saw Torain 20     go into that property?</p> <p>21      A. No. Also Police Officer Walker said that 22     he went into that property too. So it was both of 23     them.</p> <p>24      Q. He did? Where does it say that in the</p>	<p style="text-align: right;">Page 95</p> <p>1       you directed Officer Reynolds specifically to 2       arrest Torain?</p> <p>3       A. To stop him, yes.</p> <p>4       Q. To stop him? You didn't tell him to 5       arrest him?</p> <p>6       A. Well, I didn't come right out and say 7       arrest him. I said to stop him.</p> <p>8       Q. Well, a big difference?</p> <p>9       A. No. He knew what I meant when I said it. 10      I believe he knew what I meant when I said it.</p> <p>11      Q. You said to stop him, but what you really 12     meant was for him to stop him and arrest him and he 13     knew that?</p> <p>14      A. I believe he did at that time, yes.</p> <p>15      Q. But is that what you meant, to stop him? 16      You meant stopping as synonymous with --</p> <p>17      A. Yes. I wanted him arrested.</p> <p>18      Q. You wanted him arrested. So, in other 19     words, you told -- you directed Police Officer 20     Reynolds to arrest Torain, correct, at that time?</p> <p>21      A. To stop him, which meant to arrest him, if 22     you want to put it in them words.</p> <p>23      Q. Is that a fair statement?</p> <p>24      A. Yes. If you want to put it in them words.</p>
<p style="text-align: right;">Page 94</p> <p>1       statement?</p> <p>2       A. It didn't put down, which I believe -- let 3       me read it. 07425. I have Walker watching 1628 4       North 55th Street.</p> <p>5       Q. Okay.</p> <p>6       A. That's when Walker observed Delee and them 7       guys pull up to the location and was -- he was met 8       by Torain who let them into the property.</p> <p>9       Q. Okay. That would have had to have been 10      observed by Officer Reynolds, correct, maybe also 11      Officer Walker, but certainly by Officer Reynolds 12      because he was the one that went in and observed 13      Torain go in?</p> <p>14      A. He might have still been in the area. I'm 15      not sure where exactly he was located.</p> <p>16      Q. When Torain left at 2:58 -- and I'm 17      referring to the second paragraph -- at 18      approximately 2:58 p.m. Torain left 1628 North 55th 19      Street and left the area in his Bonneville. Police 20      Officer Reynolds, 4268, followed this vehicle out 21      of the area and with the aid of uniformed vehicles 22      stopped Torain?</p> <p>23      A. Yes, he did.</p> <p>24      Q. All right. Did you -- am I correct that</p>	<p style="text-align: right;">Page 96</p> <p>1       Q. So is it fair to say that the reason why 2       you were directing Police Officer Reynolds to 3       arrest him at that point was based on the 4       observations by Police Officer Reynolds as well as 5       Police Officer Walker?</p> <p>6       A. That's correct.</p> <p>7       Q. All right. So is it fair to say that you 8       were in communication with Police Officer Reynolds?</p> <p>9       At least he provided you some information in this 10      arrest, right?</p> <p>11      A. Yes. Correct.</p> <p>12      Q. Or prior to the arrest?</p> <p>13      A. Prior to the arrest. Sorry.</p> <p>14      Q. And isn't it fair to also say that he 15      provided you with information which was embodied in 16      your affidavit of probable cause to search 1628 17      North 55th Street?</p> <p>18      A. Yes.</p> <p>19      Q. Okay. And a big part of that was the fact 20      that you had to put Torain in that premises in 21      order to arrest him, correct?</p> <p>22      A. Correct.</p> <p>23      Q. And you had to put Torain in that premises 24      engaging in criminal activity in order to arrest</p>

<p style="text-align: right;">Page 97</p> <p>1 him, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Because is it fair to say that had</p> <p>4 you not had the information that Torain was at</p> <p>5 North 55th Street, he would have never have been</p> <p>6 arrested under any circumstances?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Now, at what point did you direct</p> <p>9 Officer Reynolds to go to 1621 -- it says South</p> <p>10 Conestoga, but it's North Conestoga -- to search</p> <p>11 that unit?</p> <p>12 A. We never searched that property.</p> <p>13 Q. Who is "we"?</p> <p>14 A. Nobody in my unit searched that property.</p> <p>15 Q. Are you sure about that?</p> <p>16 A. Yeah. Not that I'm aware of. We didn't</p> <p>17 have a search warrant for that property. That was</p> <p>18 the property that he listed -- that Torain listed</p> <p>19 on the 229, the biographical information.</p> <p>20 Q. Understood, but it was also the property</p> <p>21 that Officer Reynolds and Officer Walker saw him go</p> <p>22 into first before he went into North 55th, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. All right. And you didn't believe that</p>	<p style="text-align: right;">Page 99</p> <p>1 from inside that property.</p> <p>2 Q. Who is "we"?</p> <p>3 A. Officer Walker.</p> <p>4 Q. But he didn't get the affidavit; you did?</p> <p>5 A. Yes.</p> <p>6 Q. So you were aware at some point that that</p> <p>7 was a rooming house, correct?</p> <p>8 A. I believe there was three apartments in</p> <p>9 there.</p> <p>10 Q. What made you believe that? You were</p> <p>11 there, right?</p> <p>12 A. Yes.</p> <p>13 Q. Did you check out to make sure that there</p> <p>14 was three apartments?</p> <p>15 A. I don't remember exactly how many</p> <p>16 apartments. I thought there was three, but I'm not</p> <p>17 sure how it was laid out, how the apartments were</p> <p>18 laid out.</p> <p>19 Q. Nevertheless, you believed that there was</p> <p>20 other individuals living there, correct?</p> <p>21 A. Yes.</p> <p>22 Q. You knew there was other individuals</p> <p>23 present when you stated that Officer Walker</p> <p>24 informed you that Delee, Tillman and -- Delee was</p>
<p style="text-align: right;">Page 98</p> <p>1 that was -- could have been -- somehow that</p> <p>2 property could have been harboring criminal</p> <p>3 evidence?</p> <p>4 A. Nothing was seen from that other than him</p> <p>5 going in and Torain coming out.</p> <p>6 Q. And what was seen at North 55th that</p> <p>7 indicated to you that Torain was engaged in any</p> <p>8 criminal activity?</p> <p>9 A. Based on Jeff Walker telling me that Delee</p> <p>10 came out placing a baggie in his pocket, which he</p> <p>11 believed to be narcotics.</p> <p>12 Q. Okay. So? What does that have to do with</p> <p>13 Torain?</p> <p>14 A. He was leaving that property.</p> <p>15 Q. Torain was leaving that property.</p> <p>16 So what?</p> <p>17 A. No. Delee was leaving that property</p> <p>18 placing the bag into his pocket.</p> <p>19 Q. Torain was leaving placing a bag into his</p> <p>20 pocket?</p> <p>21 A. Delee was leaving the property placing the</p> <p>22 baggie into his pocket.</p> <p>23 Q. What did that have to do with Torain?</p> <p>24 A. We believed that he received the drugs</p>	<p style="text-align: right;">Page 100</p> <p>1 seen putting drugs in his pocket coming out of that</p> <p>2 unit, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Why didn't you have Delee, Tillman and</p> <p>5 Diggs stopped at that point?</p> <p>6 A. Because I wanted to see what they did once</p> <p>7 they came back to the area.</p> <p>8 Q. Why? You knew what they were doing. You</p> <p>9 seen them over a period of three days repeatedly</p> <p>10 engaged in drug activity.</p> <p>11 What exactly did you want to see?</p> <p>12 A. To see where they went, if they went into</p> <p>13 a property or if they came back to the property,</p> <p>14 and what they were going to do once they came back</p> <p>15 to the area.</p> <p>16 Q. So you wanted to see if they were going to</p> <p>17 go to some other property other than 5605, 5607 and</p> <p>18 5609?</p> <p>19 A. Well, I didn't know what other properties</p> <p>20 they were going back to. We actually had in our</p> <p>21 hand at that time search warrants for 5605, 07, and</p> <p>22 trying to get all of them officers together to</p> <p>23 execute the warrants at one given time, we were</p> <p>24 trying to instruct that. Our sergeants, the</p>

<p style="text-align: right;">Page 101</p> <p>1 captain, everybody was going over radio saying is 2 everybody ready. 3 So at that time we didn't have 4 enough manpower to stop them when they came back. 5 So I wanted to see where they came back to and what 6 they did. We were hoping to get everybody inside 7 the properties so when we hit it wasn't mass 8 confusion, which it was mass confusion once we 9 tried to come on location. 10 Q. Well, correct me if I'm wrong, but it 11 would have been an easy call to just arrest them 12 right there and then you just eliminate three out 13 of the ten guys right there and then? You already 14 had the warrants to hit the house. So you didn't 15 need anything more to hit the houses, right? 16 A. It could have been easier, yes. 17 Q. Did you instruct any of your officers or 18 even uniformed officers to arrest these individuals 19 once Officer Walker reported back to you that he 20 saw DeLee put drugs in his pocket? 21 A. No. 22 Q. Why? 23 A. Wasn't ready to arrest them yet. 24 Q. Let's go back to 1621 Conestoga.</p>	<p style="text-align: right;">Page 103</p> <p>1 that property. 2 Q. Am I correct that if someone searched that 3 property, they would have to have a warrant, right? 4 A. Yes. 5 Q. There was no exigent circumstances when he 6 went into that property, right? 7 A. Not at all. 8 Q. Okay. And the person doing the warrant 9 would be you, right? 10 A. Yes, it would have been. 11 Q. Did anyone inform you on your team that 12 they went over to Conestoga Street to search? 13 A. Like I said, I don't believe so. 14 Q. I will submit to you that there's nothing 15 in this paperwork that suggests that. 16 A. No. 17 Q. But independent of what is in the 18 paperwork, do you recall anyone informing you that 19 they were in Conestoga Street? 20 A. No. 21 Q. And if I told you I had evidence that 22 there was a search by Officer Reynolds in Conestoga 23 Street, that would be illegal, wouldn't it? 24 A. If it happened, yes, but that didn't</p>
<p style="text-align: right;">Page 102</p> <p>1 A. Sure. 2 Q. So is it fair to say that Torain was not 3 identified when he went into Conestoga, which was 4 observed by both Police Officer Walker and 5 Reynolds? 6 A. Yes, it would be fair to say. 7 Q. Okay. And is it fair to say that when he 8 went to North 55th Street, he was not identified as 9 Kareem Torain? 10 A. Yes. Correct. 11 Q. So why didn't you hit Conestoga also? 12 Didn't you believe that since he went into that 13 property later on you found out or you believed 14 that he is engaged in drug activity? Why didn't 15 you hit the Conestoga property? 16 A. I didn't feel like we needed to hit it. 17 Q. Okay. It's your testimony that no one 18 searched that unit? 19 A. Yeah. I'm under the impression nobody 20 searched that property. 21 Q. Why are you under that impression, because 22 of what you're reading? 23 A. I don't think I have anything down on 24 paperwork. I don't recall anybody ever going to</p>	<p style="text-align: right;">Page 104</p> <p>1 happen. 2 Q. It would be illegal? It would be 3 impermissible -- 4 A. If it happened. 5 Q. -- under the policies and also -- 6 MR. BRIGANDI: Mike, do you have the 7 evidence that you can show him? 8 MR. PILEGGI: I'm just asking him. 9 It's a hypothetical question. 10 BY MR. PILEGGI: 11 Q. Correct? 12 A. If it happened -- 13 MR. BRIGANDI: Do you have the 14 evidence here to show him? 15 MR. PILEGGI: I don't have the 16 evidence here, no. 17 BY MR. PILEGGI: 18 Q. Is that correct, though? 19 A. What is that? 20 Q. If there was a search, that would be 21 illegal as well as impermissible under the policies 22 and procedures? 23 MR. BRIGANDI: This is a 24 hypothetical you're giving him, correct?</p>

<p style="text-align: right;">Page 105</p> <p>1           MR. PILEGGI: Yes. 2           THE WITNESS: Yes. 3           BY MR. PILEGGI: 4           Q. Okay. 5           MR. BRIGANDI: Can we take a break? 6           MR. PILEGGI: Yeah. 7           (There was a brief recess taken at 8           this time.) 9           MR. PILEGGI: If we can go back on 10          the record. 11          BY MR. PILEGGI: 12          Q. All right. Officer, when we left off we 13          were talking about Conestoga Street. 14          Now, just so we're clear, you never 15          directed any of the officers to go over to 16          Conestoga to do anything, correct? 17          A. Correct. 18          Q. And the only reason that you found out 19          that Torain was even connected to Conestoga was in 20          the 229? 21          A. Well, other than him going into Conestoga 22          Street and coming out and through the 229, yes. 23          Q. Okay. But you're -- the 7549 says that he 24          actually went in with a key. Why was that</p>	<p style="text-align: right;">Page 107</p> <p>1           Dominion and control? 2           A. Is that what it is? Yes. 3           Q. Is that why that's in your report with 4           regards to North 55th Street? 5           A. Yes. 6           Q. Who told you that Torain used a key at 7           North 55th Street? 8           A. I believe -- 9           Q. Which one of the officers? 10          A. Reynolds. 11          Q. All right. Actually, it's on 424 at the 12          bottom. All right. Let's go back to North 55th 13          Street. 14          So do you know which officer gave 15          you the information that Delee, Tillman and Diggs 16          went into North 55th Street? 17          A. Yes. Walker did, I believe. Well, he 18          said the three males went into the property, yes. 19          Q. You would agree, would you not, that just 20          because they went into the unit, which at least had 21          three apartments at least, that wouldn't 22          necessarily mean that there was a specific place 23          that they went, correct? 24          I mean, in other words, you didn't</p>
<p style="text-align: right;">Page 106</p> <p>1           significant? I'm referring to Conestoga Street. 2           I'm referring to the page 07424. It says that at 3           approximately 2:00 p.m. Police Officer Reynolds 4           observed Torain exit 1621 South Conestoga, but it's 5           North, and travel westbound on Hunter Street in the 6           Bonneville to the southwest corner of 55th and 7           Hunter. At this point Torain exited his vehicle 8           and entered 1628 North 55th with a key. 9           A. Yes. 10          Q. So there's no mention of Torain using a 11          key to get into Conestoga? 12          A. No. 13          Q. All right. What is the significance of 14          entering with a key anywhere? 15          A. Well, if he doesn't, he kicks the door in, 16          he's -- you know. He uses a key to open the door. 17          The door was locked. He used a key that he 18          retrieved from his person. 19          Q. I understand that, but what is the 20          significance with regards to probable cause whether 21          an individual uses a key or not to get into a unit? 22          A. Well, he has -- he has control of that 23          door by him using the key that is on his person. 24          Q. Okay. So you're using a legal term.</p>	<p style="text-align: right;">Page 108</p> <p>1           have any information at that point as to where 2           those individuals went when they entered that 3           building, did you? 4           A. Officer Walker broadcast it over the 5           radio. Well, not broadcast it, but he said that 6           earlier he observed a light go on when he went 7           inside that property. 8           Q. Okay. And that's while he was at the 9           scene surveilling? 10          A. He later told me he was actually at the 11          scene surveilling. He was on foot. 12          Q. Okay. But he drove to the scene and then 13          he got out of his vehicle and went on foot? 14          A. Yes. 15          Q. All right. And am I correct that that's 16          also something that Officer Reynolds would have 17          observed also being at the scene when he saw these 18          three individuals go into the unit, correct? 19          A. I can't say what Officer Reynolds would 20          have or could have seen. I'm not sure where 21          exactly he was. He might have been -- had to be on 22          foot if he did observe it. I don't know. I know 23          he couldn't walk around that neighborhood. 24          Q. So is that where you got the probable</p>

<p style="text-align: center;">Page 109</p> <p>1 cause to search that specific room that we'll get 2 into in a second, but specifically the second 3 bedroom? Is that where you got the probable cause 4 was from Officer Walker?</p> <p>5 A. Probable cause that I got was from using 6 the key that opened the front door and that 7 apartment door.</p> <p>8 Q. Okay. And it was the same key that opened 9 the front door as that particular number two 10 apartment door, correct?</p> <p>11 A. They were separate keys.</p> <p>12 Q. Well, according to your report, it was the 13 same key. I'm sorry. It was according to your 14 testimony, but I'll bring that out later, but you 15 recall it being two separate keys?</p> <p>16 A. Yes, I do. I believe it was.</p> <p>17 Q. And how do you know that key opened up the 18 bedroom number two?</p> <p>19 A. I used the key to open it up that was 20 given to me by Police Officer Reynolds.</p> <p>21 Q. Okay. And that was before you actually 22 executed the search and seizure warrant, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And in order to get to that bedroom, am I</p>	<p style="text-align: center;">Page 111</p> <p>1 whether that was the bedroom that drugs were stored 2 in?</p> <p>3 A. It's not a bedroom. It's an apartment.</p> <p>4 Q. Okay. Let me rephrase the question. So 5 you believed that there was exigent circumstances 6 to go into the building to get to that particular 7 apartment by using the key prior to getting a 8 warrant because it was exigent circumstances?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay. What is your definition of exigent 11 circumstances?</p> <p>12 A. Well, in that case, we didn't know -- 13 being the time lapse between anybody observing the 14 property and being that we just conducted a major 15 takedown in the area, we didn't know if anybody was 16 able to get back to the property or if anybody was 17 in that property at the time.</p> <p>18 Q. Wait a minute. Correct me if I'm wrong. 19 I'm going to read from your report. You already -- 20 someone, either Reynolds or Walker, observed Delee, 21 Tillman and Diggs leave, right?</p> <p>22 A. Yes.</p> <p>23 Q. In fact, one of them reported to you that 24 they saw Delee put what they thought appeared to be</p>
<p style="text-align: center;">Page 110</p> <p>1 correct that you have to get into the building 2 first?</p> <p>3 A. Yes.</p> <p>4 Q. And you used one of those keys to get into 5 that building that would then let you into the 6 second bedroom?</p> <p>7 A. Yes.</p> <p>8 Q. You didn't have a warrant at that time, 9 did you?</p> <p>10 A. For getting in the front door?</p> <p>11 Q. Yes.</p> <p>12 A. No.</p> <p>13 Q. It was an illegal entry, wasn't it?</p> <p>14 A. No, it was not.</p> <p>15 Q. Why?</p> <p>16 A. We went in there to secure the property in 17 case there was any narcotics if anybody was in 18 there being that we just conducted a major takedown 19 in that area. We were worried that drugs would be 20 destroyed if there was anybody in that apartment.</p> <p>21 Q. So you believed that there was exigent 22 circumstances to go into that unit with the key 23 that you confiscated off the individual arrested to 24 get into a second bedroom to further investigate</p>	<p style="text-align: center;">Page 112</p> <p>1 drugs in his pocket, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And then Officer Walker -- Officer 4 Reynolds followed Torain out of that property and 5 arrested him about nine or ten or twelve blocks 6 away, correct?</p> <p>7 A. Correct.</p> <p>8 Q. So this was long after these three 9 individuals left, correct?</p> <p>10 A. A couple minutes.</p> <p>11 Q. All right. So what was the exigent 12 circumstances?</p> <p>13 A. Well, then Officer Walker left the area, 14 and Officer Reynolds, who were involved with 15 takedown of certain individuals.</p> <p>16 Q. Okay. So it's your testimony that Officer 17 Walker as well as Officer Reynolds left the area to 18 arrest Torain?</p> <p>19 A. Not Torain but other individuals.</p> <p>20 Q. Wait a minute.</p> <p>21 A. Reynolds arrested along with a marked 22 vehicle.</p> <p>23 Q. So Reynolds arrested Torain, right?</p> <p>24 A. Yes.</p>

Page 113	Page 115
<p>1 Q. And Walker went and arrested someone else?</p> <p>2 A. A short time later, yes. He was involved 3 with the arrest.</p> <p>4 Q. Who was that?</p> <p>5 A. After Torain was secured, it looks like 6 Brian Reynolds and Walker, Jeff, they stopped the 7 Sebring or the Breeze at 56th and Market Street.</p> <p>8 Q. At 3:17, correct?</p> <p>9 A. Yeah. Even though they were in separate 10 vehicles they arrested Hodge.</p> <p>11 Q. But let me ask a question. Reynolds had 12 already arrested Torain at 2:58, right?</p> <p>13 A. Yes.</p> <p>14 Q. According to your report it says that at 15 approximately 2:58 Torain left 1628 North 55th 16 Street and left the area in his Bonneville. Police 17 Officer Reynolds followed this vehicle out of the 18 area and with the aid of uniformed vehicles stopped 19 Torain.</p> <p>20 Right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. At 61st and Nassau, which is 23 several blocks away, right?</p> <p>24 A. A couple blocks away, yes.</p>	<p>1 transactions, right?</p> <p>2 A. Yes. And then he went back into 5605 3 Master Street and then they all came running out of 4 that property.</p> <p>5 Q. Okay. The point being is that other than 6 what either Reynolds or Walker told you with 7 respect to Delee putting drugs in his pocket, you 8 never recovered any of those drugs that were 9 allegedly observed, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And Torain had nothing on him, nothing 12 whatsoever, no type of contraband or drugs or 13 anything of the sort, no marked money, that would 14 link him to this organization, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Nevertheless, after apparently -- by the 17 way, where does it say that Walker and Reynolds 18 arrested another individual? I believe it was 19 Hodges. I'm sorry. Let me read it to you. It's 20 in the middle of the paragraph. This is on page 21 07425.</p> <p>22 It says that at approximately 3:17 a 23 marked police vehicle stopped in the middle of 56th 24 -- here it is. Police Officer Reynolds, 4268, and</p>
<p style="text-align: center;">Page 114</p> <p>1 Q. And then recovered from Torain was one 2 pager, one Nextel cell phone, one cancer key ring 3 containing five keys, one black key ring containing 4 three keys, one later determined to work the door 5 of 1628 North 55th Street and apartment number two 6 inside?</p> <p>7 A. Yes.</p> <p>8 Q. So, according to your report, one key fit 9 both doors, right?</p> <p>10 A. That's what it says, yes. I don't recall 11 at this time if it was one or two keys.</p> <p>12 Q. And also recovered was \$250, right?</p> <p>13 A. Yes.</p> <p>14 Q. Nothing illegal about any of those items, 15 are there?</p> <p>16 A. No.</p> <p>17 Q. Okay. And when Delee was arrested, did 18 you find on him the drugs that one of the officers 19 informed you he was putting in his pocket when he 20 was leaving 55th Street?</p> <p>21 A. No. I don't believe anything was 22 recovered from Delee at the time.</p> <p>23 Q. And, in fact, you observed him go back to 24 56th and Master and engage in several drug</p>	<p style="text-align: center;">Page 116</p> <p>1 Police Officer Walker, 3730, stopped the Breeze at 2 56th and Market. Hodge was placed under arrest and 3 recovered from him was five blue tinted ziplock 4 packets containing a green weed substance, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And a key ring, three keys, one which 7 later was determined to work the door at 5607 8 Master Street, right?</p> <p>9 A. Correct.</p> <p>10 Q. But you already had enough on Master 11 Street, 5607 Master Street, to serve the search 12 warrant anyway, correct?</p> <p>13 A. Yeah. We didn't -- well, the key came in 14 handy. I'm not sure if we took -- well, I'm not 15 sure if the officers took the door by force or if 16 they used a key. I believe they entered by force, 17 but I'm not sure.</p> <p>18 Q. But the key comes in handy in order to 19 link him to that particular unit, correct?</p> <p>20 A. Well, yes, it does.</p> <p>21 Q. Okay. And that's what you're intending to 22 do when Reynolds came back to the area, North 55th 23 Street, and when you arrived he gave you the set of 24 keys that he took off of Torain, correct?</p>

<p style="text-align: right;">Page 117</p> <p>1 A. Yes. 2 Q. And you tried those keys to determine 3 whether they fit the door so you could link Torain 4 to that unit, correct? 5 A. Yeah. Also during that time we were back 6 at 1628 55th Street. Officer Kelly had a 7 conversation with a male who was either the owner 8 or the manager who gave us a description of a male 9 using that apartment. 10 Q. We'll get to that. 11 A. That's fine. 12 Q. I'm just asking about the key, what the 13 purpose of taking the keys off of Torain was. 14 What was the purpose of that? 15 A. To try to see if they worked the doors. 16 Q. Okay. Did you instruct Reynolds to bring 17 the key to you? 18 A. He met me back at the property. So we all 19 met back at the property, a lot of us. 20 Q. Did Reynolds tell you that he confiscated 21 keys off of him? 22 A. Yes. 23 Q. And Reynolds was -- just for clarity's 24 sake, Reynolds was the one that told you that he</p>	<p style="text-align: right;">Page 119</p> <p>1 nobody came in to destroy any evidence or anything 2 that was in there or if any of our guys were hiding 3 in the apartment. 4 Q. Do you recall testifying that Officer 5 Walker had actually met you at the property and he 6 had secured the property since Torain left? 7 A. Yes. 8 Q. You recall that? 9 A. I recall that. 10 Q. So the property was secured. So there was 11 no fear that drugs were going to be destroyed 12 because Walker was at the property for close to an 13 hour before you arrived? 14 A. No, not the whole time. Like I stated, 15 Walker was involved in the takedown of certain 16 individuals. That property was not being kept a -- 17 surveillance on it during that time. 18 Q. Okay. So when you arrived Walker was 19 inside the property, right? 20 A. No. 21 Q. He was in the hallway, according to your 22 testimony? 23 A. He went in the hallway. We met outside 24 and we tried the door and we went into the hallway.</p>
<p style="text-align: right;">Page 118</p> <p>1 used the key to get into that door in the first 2 place, right? 3 A. Yes. 4 Q. Not Walker, but Reynolds? 5 A. Correct. 6 Q. Okay. Now, am I correct that you went 7 back to the apartment at 3:50 approximately? 8 A. 3:58 was it? 9 Q. 3:50 it says. This is on page 07426. 10 A. Okay. Yes. 3:50. I'm sorry. 11 Q. Okay. It says that at 3:50 members of 12 narcotics went to 1628 North 55th Street to attempt 13 to secure the apartment that Torain went into. 14 Is that what your intent was, to 15 secure that apartment? 16 A. Yes. 17 Q. Okay. I'm a little confused. He left at 18 2:58, almost an hour before. 19 What were the exigent circumstances? 20 A. That being the time lapse between the time he was stopped and during -- between the time all the arrests were made in the area and at that -- the property wasn't being watched at that time. We went back to secure the property to make sure</p>	<p style="text-align: right;">Page 120</p> <p>1 Walker didn't have a key. So there was no way of 2 Walker getting into that hallway. 3 Q. Officer, do you recall your testimony that 4 when you got to the property, Officer Walker was 5 waiting for you in the hallway? 6 A. I don't recall that. 7 Q. Okay. And you would -- if I point that 8 out to you, that would be illegal, wouldn't it, 9 because you had one of your officers go into a 10 property without any probable cause at that point 11 or any suspicion whatsoever? 12 A. No, but I don't know how he would have got 13 into that property without using the key. 14 Q. That's not my question. If he was in that 15 property, that would be illegal, wouldn't it? 16 MR. BRIGANDI: Mike, do you have the 17 testimony to show him? 18 MR. PILEGGI: Yes, I do. 19 MR. BRIGANDI: Can you do that? 20 MR. PILEGGI: I'll get to it. 21 BY MR. PILEGGI: 22 Q. Am I correct? 23 A. No, it wouldn't be illegal because we were 24 going to that property to secure it.</p>

<p style="text-align: right;">Page 121</p> <p>1 Q. So if you go in to secure it, an officer 2 can go in without a warrant to secure it? Is that 3 your understanding? 4 A. Yes, it is. 5 Q. Okay. So what would prevent a police 6 officer to say he was going to secure a property 7 and just go in there and search without a warrant? 8 A. It all depends on who the officer is. 9 Q. Okay. But you would agree that all that 10 would be premised, a warrantless search, on the 11 fact that you believed you had exigent 12 circumstances, right? 13 A. True. 14 Q. Because that's the only time you can do a 15 warrantless search, correct? 16 A. What is that? 17 Q. Exigent circumstances. 18 A. I believe there's other ways, but I'm not 19 sure of what the other ways are right now. 20 Q. Why don't you tell me. You've been a 21 police officer for how long? 22 MR. BRIGANDI: This isn't a trivia 23 contest for his legal knowledge. 24 MR. PILEGGI: Sure, it is.</p>	<p style="text-align: right;">Page 123</p> <p>1 MR. BRIGANDI: If you can recall. 2 You're asking him throughout his whole 3 career? 4 MR. PILEGGI: No. 5 BY MR. PILEGGI: 6 Q. You've been a police officer for over 20 7 years? 8 A. Yes, I have. 9 Q. Okay. Have you ever gone into a property 10 and done a warrantless search when you didn't 11 believe you had exigent circumstances? 12 A. Are we talking search warrant or arrest 13 warrant? 14 Q. Search warrant. 15 A. Okay. In my career, I don't recall other 16 than with exigent circumstances. 17 Q. I'm going to go back to my original 18 question. 19 That would be illegal, wouldn't it, 20 assuming there was no exigent circumstances to 21 conduct a warrantless search? 22 A. True. 23 Q. And a search would -- it would be a 24 warrantless search if you went into an apartment</p>
<p style="text-align: right;">Page 122</p> <p>1 MR. BRIGANDI: No, it's not. 2 MR. PILEGGI: Yes, it is. He's the 3 lead investigator. 4 MR. BRIGANDI: Give me a break. Ask 5 your next question. 6 BY MR. PILEGGI: 7 Q. How long have you been a police officer? 8 A. For 28 years. 9 MR. BRIGANDI: We're not getting 10 into this. He's already answered this 11 question. 12 MR. PILEGGI: Are you instructing 13 him not to answer? 14 MR. BRIGANDI: Yes. He's already 15 answered this question like five times. 16 MR. PILEGGI: Are you instructing 17 him not to answer? 18 MR. BRIGANDI: Yes. He's not a 19 lawyer. We're not here to quiz him on his 20 legal knowledge. 21 BY MR. PILEGGI: 22 Q. What are the other ways that you've 23 testified are the exceptions other than exigent 24 circumstances? You're looking at counsel.</p>	<p style="text-align: right;">Page 124</p> <p>1 building, if you broke the front door, in other 2 words, you went into the front door? That would be 3 a search, wouldn't it? You would need a warrant? 4 A. Not if you're -- no. You're not 5 searching. If you go in there and lift things up, 6 move things, that's searching. If you just go in 7 and stand there, you're not searching. 8 Q. So it's your testimony that you can go 9 into a building without a warrant pursuant to an 10 investigation and so long as you don't search, lift 11 things, that that's legal? 12 A. A vestibule is common ground. Anybody can 13 go into a vestibule. It's common ground. 14 Q. Okay. So it's your testimony that you're 15 getting the search warrant for the second 16 apartment? 17 A. Yes, we did. 18 Q. Let's look at the search warrant. 19 - - - 20 (Whereupon, Exhibit Monaghan-2 was 21 marked for identification.) 22 - - - 23 BY MR. PILEGGI: 24 Q. Officer Monaghan, you've been given what</p>

<p>Page 125</p> <p>1 has been marked as Monaghan-2 for identification.      2 That is the search warrant for 1628 North 55th      3 Street, correct?      4 A. Yes.      5 Q. All right.      6 A. That's what it looks like.      7 Q. Now, a couple general questions. This was      8 a search warrant that appears was      9 conducted/executed on January 5th, and it says      10 2000, but that's a typo, correct?      11 A. No. Date of application up in the      12 right-hand corner underneath the control number,      13 which would be the warrant control number,      14 1/5/2001.      15 Q. That's when you applied for it?      16 A. Yes.      17 Q. But you executed the warrant -- and I'm      18 going to refer to you to the middle of the page.      19 A. I see it, yes.      20 Q. It says 1/5/2000, right?      21 A. Yes.      22 Q. That's a mistake?      23 A. Yes.      24 Q. It says 1:00 a.m., correct?</p>	<p>Page 127</p> <p>1 Officer Reynolds gave you the key that he      2 confiscated off of Torain?      3 A. Yes.      4 Q. And Walker was there?      5 A. Yes.      6 Q. So it was yourself, Kelly, Walker,      7 Reynolds.      8 Anyone else?      9 A. I believe there was a few of us. Off the      10 top of my head, I'm not sure who, but I believe      11 there was a supervisor there.      12 Q. Who would that supervisor be?      13 A. Either Corporal Sinclair or Sergeant      14 Gessner.      15 Q. Okay. And this is at the point where you      16 -- at 3:50 when you tried the key, correct?      17 A. Yes.      18 Q. All right. Do you recall when you arrived      19 at the scene Officer Walker was in the hallway,      20 correct?      21 A. I'm not positive. I believe he was on the      22 porch.      23 Q. Well, okay. Let me get to the testimony.      24 Give me one second. Let me refer to my notes.</p>
<p>Page 126</p> <p>1 A. Yes.      2 Q. So is it fair to say that you executed      3 this search warrant at 1:00 a.m. on -- it's a      4 little bit difficult to see, but if you look at      5 third box down it says 1628 North 55th Street,      6 correct?      7 A. Yes.      8 Q. It says a three-story corner row, I guess      9 that's conventional/apartment building, masonry,      10 first floor, apartment two, correct?      11 A. Correct.      12 Q. And it says the name of owner or occupant,      13 and it's a little difficult to see also, but it      14 says somebody Waites and Vincent Saunders, correct?      15 A. Yes.      16 Q. We'll get into this again, but Vincent      17 Saunders was an individual you had a discussion      18 with, correct?      19 A. Kelly did, yes.      20 Q. Officer Kelly?      21 A. Yes.      22 Q. And Officer Kelly was present -- we're      23 going to go back a little bit. I'm sorry to keep      24 shifting, but Officer Kelly was also present when</p>	<p>Page 128</p> <p>1 A. Mr. Pileggi, can I ask what notes you're      2 referring to?      3 Q. Sure. Those are my own notes.      4 A. Okay. That you received off of what      5 paperwork?      6 Q. No. These are my own personal notes after      7 reviewing all the paperwork.      8 A. Okay.      9 Q. Okay. I'm going to give you a copy of      10 this so we can go over it together. We'd better      11 mark it.      12 MR. PILEGGI: Mark this as      13 Monaghan-3.      14 - - -      15 (Whereupon, Exhibit Monaghan-3 was      16 marked for identification.)      17 - - -      18 BY MR. PILEGGI:      19 Q. Officer Monaghan, I'm going to -- this is      20 the preliminary hearing notes/transcript of a      21 preliminary hearing for the Torain case. There was      22 other cases consolidated with it, but this was a      23 preliminary hearing on October 23, 2001. You were      24 one of the officers who testified. If you could</p>

<p style="text-align: right;">Page 129</p> <p>1 refer to page 30.      2 A. Okay.      3 Q. On page 30 -- and let me just read it.      4 This is the question by the district attorney.      5 "Now, did you have occasion to      6 receive information from Officer Reynolds and any      7 physical property in relation to the address 1628      8 North 55th Street, apartment two?"      9 Your answer was: "Yes. About 3:55      10 I went to that area with Police Officer Kelly, 1658      11 North 55th Street. The middle bedroom apartment      12 was being secured by Police Officer Walker, Your      13 Honor. He was standing in the hallway of that      14 property, Your Honor." Okay.      15 Does that refresh your recollection?      16 A. Yes, it does.      17 Q. That Officer Walker was in the hallway      18 when you arrived with Officer Kelly?      19 A. Yes.      20 Q. Okay. Do you recall when you arrived that      21 the corporal or whoever the supervisor was was      22 already there?      23 A. I don't recall.      24 Q. Am I correct that whatever happened from</p>	<p style="text-align: right;">Page 131</p> <p>1 all he wants. I'm sorry.      2 Sir, do you have any connection with      3 this case?      4 OBSERVER: Me personally?      5 MR. BRIGANDI: Yes.      6 OBSERVER: No.      7 MR. BRIGANDI: Okay.      8 BY MR. PILEGGI:      9 Q. Should I repeat it?      10 A. Yes. A supervisor should be -- if we were      11 going to go into a property to secure it, we should      12 have a supervisor there, yes.      13 Q. Okay. I think my question was do you      14 recall the supervisor being Sinclair?      15 A. I don't remember who was there.      16 Q. Could it have been Jeannie Gessner?      17 A. Yes. As I said, it could have been either      18 Jeannie or Sinclair.      19 Q. Now, why would a supervisor have to be      20 there?      21 A. Departmental reasons. They always want a      22 supervisor to go into a property if -- unless it's      23 very exigent circumstances to where like if you had      24 to chase somebody into a property. Most of the</p>
<p style="text-align: right;">Page 130</p> <p>1 here a supervisor would have to be present pursuant      2 to the policies and procedures?      3 A. Would have to be on his way, yes, or      4 present, yes.      5 Q. Especially if you're going to go into a      6 building without a warrant, that supervisor would      7 have to be there, correct?      8 A. Yes, if we were going to go in.      9 Q. And you seem to recall it was Corporal      10 Sinclair?      11 MS. CORTES: I just want to make a      12 note for the record that we had someone      13 enter the courtroom.      14 MR. BRIGANDI: I want to know is      15 that a witness in the back?      16 MR. PILEGGI: Yes.      17 MR. BRIGANDI: Who? Is he a witness      18 in this case?      19 MR. PILEGGI: Oh, no. He's not a      20 witness. He's an observer.      21 MR. BRIGANDI: Do you know him?      22 MR. PILEGGI: No.      23 MR. BRIGANDI: As long as he has no      24 connection to this case, he can sit there</p>	<p style="text-align: right;">Page 132</p> <p>1 times when we secure properties we always had a      2 supervisor come to our location.      3 Q. Well, you said "very exigent      4 circumstances."      5 What does that mean?      6 A. Say, like you're chasing somebody into a      7 house. He shoots somebody and then he runs into a      8 house and you're running in a house after him. I'm      9 not going to stop at the front door and call for a      10 supervisor.      11 Q. I agree. That's exigent circumstances,      12 correct?      13 A. Yes, very exigent.      14 Q. Why is it "very" as opposed to just      15 exigent?      16 A. Well, because you don't have time to stop      17 and call for a supervisor. In this case we did      18 have time to stop and say we're going to meet here.      19 Can I have a supervisor come up here?      20 Q. Again, I don't want to split hairs here,      21 but isn't that the point that makes it exigent?      22 A. What?      23 Q. That you don't have time --      24 A. Yeah.</p>

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<p>1 Q. -- to secure a warrant.      2 A. Well, we did have time to secure a      3 warrant.      4 Q. I understand that. That's my point.      5 So why is it very exigent?      6 A. I just gave you that as a shooting      7 scenario.      8 Q. Okay. So do you know how Walker got in      9 there?      10 A. No, I do not.      11 Q. You mentioned he didn't have the key?      12 A. No.      13 Q. How do you know he didn't have the key?      14 A. Because Officer Reynolds gave me the key.      15 Q. When you arrived was Officer Reynolds      16 there?      17 A. We might have just been getting there at      18 the same time. I don't recall who got there when.      19 Q. Do you think Officer Walker broke in?      20 A. No.      21 Q. Do you think he climbed in the window?      22 A. No.      23 Q. Do you think he was with Officer Reynolds      24 when you arrived?</p>	<p>1 the hallway.      2 Were you not telling the truth when      3 you testified?      4 A. Oh, no. I was telling the truth. I'm not      5 sure where exactly he was standing.      6 Q. Okay. Is it fair to say that your memory      7 was better back then in 2001 than it is today?      8 A. Oh, definitely. Absolutely, it would have      9 been.      10 Q. Would that have been something you would      11 have to put in the paperwork that Officer Walker      12 was there when you arrived at the property already      13 inside the property?      14 A. No. I wouldn't have had to put it in      15 there.      16 Q. Do you know if the supervisor, whoever it      17 was, was inside the property with Officer Walker or      18 was that supervisor outside the property with      19 Officer Reynolds?      20 A. I don't recall.      21 Q. Going back to this, did you ask Officer      22 Reynolds or Officer Walker if they were in that      23 room prior to you arriving?      24 A. I don't believe I did, no.</p>
Page 134	Page 136
<p>1 A. Like I said, I'm not positive who was all      2 there. Officer Reynolds could have been there.      3 Q. Okay. But, nevertheless, when you arrived      4 Officer Reynolds gave you a key?      5 A. Yes.      6 Q. Did Officer Reynolds inform you that they      7 were in that second bedroom prior to you arriving?      8 A. No.      9 Q. Did you ask him?      10 A. No, because the door was locked. He had      11 the keys. He was standing outside. I opened the      12 front door. Then I opened the apartment door.      13 Q. What do you mean, Officer Reynolds was      14 standing outside?      15 A. Yes.      16 Q. I thought you said you didn't know if he      17 was with Walker or not.      18 Walker was inside, right?      19 A. I stated that in my testimony. I'm not      20 positive where Walker was standing. He could have      21 been standing right there at the front door. To      22 the best of my knowledge, I can't remember where he      23 was when we pulled up.      24 Q. You testified under oath that he was in</p>	<p>1 Q. That would have been impermissible and      2 illegal, correct?      3 A. No. They could have secured the property      4 as long -- before me, but, no, I didn't ask them.      5 Q. Well, what do you mean, they could have      6 went in the room to secure it?      7 A. They could have opened it up with the keys      8 and secured it, but I don't think that happened. I      9 didn't ask anybody if they were in that property.      10 Q. Wouldn't that be a search?      11 A. No. We would secure the property.      12 Q. Okay. All right. So why did you go and      13 get a warrant in this case? Why didn't you just go      14 in at 3:50? Why did you wait until 1 o'clock in      15 the morning to get a warrant?      16 A. Because we didn't know what we had in      17 there being that we never searched the property.      18 Q. Isn't it true that you had a discussion      19 with the owner of the property, Mr. Saunders, and      20 he informed you that you were not allowed to go in      21 there without a warrant? Do you recall that?      22 A. No, I don't recall that.      23 Q. Do you recall having any discussions with      24 the owner of the property, Vincent Saunders?</p>

<p style="text-align: right;">Page 137</p> <p>1 A. Officer Kelly did. 2 Q. Well, that was a different Vincent 3 Saunders. That was the father who was the manager. 4 A. Okay. 5 Q. Do you recall having a telephone 6 discussion with the owner who later came down and 7 met with you and Officer Kelly? 8 A. I don't recall that, no. 9 Q. Okay. After Officer Walker -- when you 10 arrived there, Officer Walker stayed there securing 11 the property while you went and got a search 12 warrant, correct? 13 A. I'm not sure. We did have officers there 14 standing by. 15 Q. Uniformed officers or part of the team? 16 A. I would say, to the best of my knowledge, 17 we would have had a uniformed officer there, but it 18 would be probably two or three people from my unit. 19 Q. That's something you would have to put in 20 your report, correct? 21 A. No. If I wanted to I could have, but, no, 22 there's nothing I would have to put in a report for 23 that. 24 Q. So there's nothing in your report that you</p>	<p style="text-align: right;">Page 139</p> <p>1 A. It could have been. I'm not sure. 2 Q. Let me ask you a question. 3 A. Sure. 4 Q. At 3:30 there was the execution of the 5 other search warrants at 5605, 5607 and 5609, 6 right? 7 A. Yes. 8 Q. And you coordinated those -- the execution 9 of those search warrants, correct? 10 A. Along with the supervisor. We were in 11 radio contact. 12 Q. So you were -- as the lead investigator, 13 you were the one that was going to coordinate 14 hitting those houses, right? 15 A. Well, each house that was hit was hit by a 16 different group. So each group had a supervisor. 17 The supervisors were in contact with, I guess, the 18 captain and the lieutenant, whoever was out there 19 for the execution of the warrants. So they were 20 done simultaneously. I don't know who made the 21 call to hit the houses. 22 Q. But the point is that these houses were 23 next to each other, right? 24 A. Yes, they were.</p>
<p style="text-align: right;">Page 138</p> <p>1 would have to indicate that you secured a property 2 while you went and got a search warrant? 3 A. Yes, secured it, but how we secured it, I 4 didn't put that in my paperwork. 5 Q. Where is it in your paperwork that you 6 even secured it pending getting a search warrant? 7 A. I don't see it in the 49. The only thing 8 I said is I obtained a search and seizure warrant, 9 and that's it. 10 Q. So it's your testimony that you 11 independently recollect that there was some police 12 officers securing the property while you got a 13 search warrant, correct? 14 A. Correct. 15 Q. So it's your testimony that from about 4 16 o'clock p.m. until 1:00 o'clock a.m. there was 17 officers in that building securing the property or 18 in the room? 19 A. Yes. Correct. 20 Q. And you don't have it anywhere in your 21 report nor do you have the circumstances of 22 actually who secured it? 23 A. No, I don't. 24 Q. How do you know it wasn't Jeffrey Walker?</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. So it's your testimony that there were 2 three separate supervisors out there? 3 A. There could have been, yes. 4 Q. Who do you recall being out there, because 5 you were out there, right? 6 A. Yes. I could give you who the supervisors 7 were that were working with that group. I don't 8 know if they were working that day, but, you know, 9 How would you like me to answer 10 that? 11 Q. Well, maybe -- 12 A. Who did I see hit the house? 13 Q. I could help you out. 14 A. Okay. 15 Q. We had Corporal Sinclair working that day. 16 We know that because you said that he was probably 17 -- or could have been at 55th Street, right? 18 A. Yes. 19 Q. We have also Jeannie Gessner who was 20 working that day because she could have been also 21 one of the supervisors at 55th Street, correct? 22 A. Correct. 23 Q. All right. And 55th Street you went over 24 there about 25 minutes after -- 20 minutes after</p>

<p style="text-align: center;">Page 141</p> <p>1       the coordination of the other three houses at 5605, 2       5607 and 5609?</p> <p>3       A. Correct.</p> <p>4       MR. BRIGANDI: Are you asking -- my 5       client has said in trying to answer your 6       question that he doesn't know, but are you 7       telling him -- asking him to assume based 8       on the stuff you're telling him?</p> <p>9       MR. PILEGGI: No. I'm just telling 10      him that we -- yes.</p> <p>11      MR. BRIGANDI: You're asking him to 12      make assumptions?</p> <p>13      MR. PILEGGI: Based on his testimony 14      that there could have been two supervisors 15      there, either Jeannie Gessner or Corporal 16      Sinclair, at 55th Street.</p> <p>17      MR. BRIGANDI: Could have been?</p> <p>18      MR. PILEGGI: Could have been.</p> <p>19      MR. BRIGANDI: You're asking him to 20      guess then? I just want to be clear. 21      You're asking him to guess?</p> <p>22      MR. PILEGGI: Yes. That was his 23      testimony, could have been.</p> <p>24      BY MR. PILEGGI:</p>	<p style="text-align: center;">Page 143</p> <p>1       contraband, drugs or whatever, you were shown or 2       informed where these drugs were found, correct?</p> <p>3       A. Yes.</p> <p>4       Q. And, in fact, guns and bulletproof vests 5       and drugs and old money were all found on all these 6       properties, correct?</p> <p>7       A. Correct.</p> <p>8       Q. All right. How long did that take, those 9       three warrants? It takes some time?</p> <p>10      A. Yes. It takes time to execute a warrant.</p> <p>11      Q. So, I mean, hours, right?</p> <p>12      A. It could. It depends on who's searching 13      and it depends on what you're finding.</p> <p>14      Q. Do you recall how long these three 15      searches took?</p> <p>16      A. No, I don't recall.</p> <p>17      Q. More than a half hour, though, wasn't it?</p> <p>18      A. For them to be -- yeah. Yeah.</p> <p>19      Q. So while they were searching those units 20      you went over to 55th Street, right?</p> <p>21      A. A short time later.</p> <p>22      Q. Well, 20 minutes later?</p> <p>23      A. Yeah.</p> <p>24      Q. So while the searches were still being</p>
<p style="text-align: center;">Page 142</p> <p>1       Q. I'm saying we can include those two 2       officers, correct, that could have been the 3       officers at 5605, 5607 and 5609?</p> <p>4       A. At one time, yes.</p> <p>5       Q. As supervisors?</p> <p>6       A. As supervisors.</p> <p>7       Q. But you were certainly there, correct?</p> <p>8       A. I was there, yes.</p> <p>9       Q. And the warrants were executed at 3:30, 10      right?</p> <p>11      A. Close, yes.</p> <p>12      Q. And you actually participated in the 13      searches in two of the units, 5605 and 5609, right?</p> <p>14      A. I was instructed by the officers who 15      observed the stuff in there -- they showed me where 16      it was. I didn't participate in the search itself. 17      I was the assigned -- they instructed me this is 18      what was located. I went into the property. This 19      is what we found. This is where we found it. That 20      was about it.</p> <p>21      Q. Let me clarify. You were actually in 22      these properties while the search was going on?</p> <p>23      A. Yes.</p> <p>24      Q. And these officers, whoever discovered</p>	<p style="text-align: center;">Page 144</p> <p>1       conducted, you left as the lead investigator to go 2       over to 55th Street?</p> <p>3       A. Correct.</p> <p>4       Q. Why?</p> <p>5       A. To meet up with the other officers that 6       were there.</p> <p>7       Q. Okay. For what purpose?</p> <p>8       A. To secure the property.</p> <p>9       Q. Jeffrey Walker, according to your 10      testimony, had already secured it?</p> <p>11      A. Yep. Being that I was the assigned, I had 12      to go to the property also.</p> <p>13      Q. In order to try to determine whether 14      Torain was linked to that particular bedroom?</p> <p>15      A. Well, being that he had the key, we knew 16      he was linked to that room.</p> <p>17      Q. Okay. So what did you need to go over 18      there to do?</p> <p>19      A. I was the assigned.</p> <p>20      Q. I understand that. So it was more 21      important to go over to 55th Street on a wild-goose 22      chase than to stay where you were searching and 23      finding drugs, guns, bulletproof vests, rounding up 24      ten other individuals that you had seen on a video</p>

<p style="text-align: right;">Page 145</p> <p>1 over the course of two or three days engaged in 2 drug activity?</p> <p>3 A. The other officers that we were working 4 with were very capable of doing their own search 5 warrants.</p> <p>6 Q. More capable than Officer Walker and 7 Officer Reynolds?</p> <p>8 A. No. No. But they were assigned to that 9 specific property. So they were very capable of 10 recovering the drugs, putting down whose drugs it 11 was, where the drugs were recovered, what was 12 recovered.</p> <p>13 Each officer -- in each group you 14 have your confiscating officer and if we 15 photographed -- I doubt that we photographed the 16 evidence that was recovered that day, but they 17 would do it themselves. I just went to the 18 location just to get a look of what the location 19 looked like.</p> <p>20 Also, I went to the location of 1628 21 to get an observation after we secured it of what 22 the property looks like so I can go back and do an 23 affidavit for a search warrant.</p> <p>24 Q. Based on the information provided by</p>	<p style="text-align: right;">Page 147</p> <p>1 recorded it on any type of paperwork. 2 Q. Okay. So you're saying that it wasn't 3 part of the probable cause?</p> <p>4 A. No. The probable cause that I believed 5 was the keys opened up the door. 6 Q. But you didn't know that until after 7 Torain was arrested, right? 8 A. Know what? 9 Q. That the keys fit the door. 10 A. Yes. That's correct. 11 Q. So you were trying to establish the 12 probable cause after my client was arrested; is 13 that fair to say? 14 A. That gave us more probable cause to get in 15 there to get the warrant. 16 Q. That wasn't my question. Am I correct 17 that you were trying to establish the probable 18 cause -- in other words, justify Torain's arrest by 19 going back to the property, confiscating the key 20 off of him at his arrest, going back to the 21 property to see if the key fit? 22 A. Torain was being arrested regardless. The 23 probable cause of us going back to that property 24 was because of the keys that opened that door.</p>
<p style="text-align: right;">Page 146</p> <p>1 Officer Reynolds and Officer Walker? 2 A. With the keys that opened up both 3 properties -- both doors, yes. 4 Q. Okay. Well, no, not just the keys that 5 opened it up, but also the light going on and all 6 that, right? 7 A. Yeah. I was instructed about a light, 8 yes. 9 Q. Well, let me ask you this, because there 10 was testimony by yourself that Officer Walker 11 provided information to you that when Torain went 12 into the unit observed by Reynolds, Officer Walker 13 observed a light go on in one of the bedrooms. 14 Do you recall that? 15 A. Yes. 16 Q. What was the significance of that? 17 A. He came over the radio and said -- he said 18 he was on foot and he saw a light come on in an 19 apartment. 20 Q. So? What did that indicate to you? Why 21 was that part of the probable cause issue with 22 respect to the arrest of Torain? 23 A. Well, it wasn't because I never put it 24 down on any affidavit or anything. I never</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Torain was being arrested regardless why? 2 I thought you just told me that the reason why that 3 you believed that you had probable cause to arrest 4 him was because the key fit the door. 5 A. He was arrested before the keys -- before 6 we went back to the property. 7 Q. Obviously. I'm going to ask you again. 8 So part of your probable cause 9 consideration or your probable cause consideration 10 was the fact that the key fit the door, right? 11 A. That and what Police Officer Walker at 12 that time told me that he observed. 13 Q. What did he say he observed? 14 A. Deleee walking out, putting a bag in his 15 pocket. Deleee getting out of the vehicle in which 16 Torain was driving -- at that time a black male was 17 driving the Bonneville. Getting out and placing a 18 clear baggie in his pocket. 19 Q. Officer, you didn't know it was Torain at 20 the time until after he was arrested? 21 A. That's correct. I stated that numerous 22 times. 23 Q. I'm going to ask it one more time. 24 So you arrested Torain and then you</p>

<p style="text-align: right;">Page 149</p> <p>1       got your probable cause?</p> <p>2       A. Went back to secure the property, yes.</p> <p>3       Q. So Torain was arrested without probable</p> <p>4       cause, which you established after his arrest? Is</p> <p>5       that fair to say?</p> <p>6       A. No. The probable cause was -- we</p> <p>7       established to get into the property. Torain was</p> <p>8       already arrested. We had enough probable cause at</p> <p>9       that time to believe that he was involved with the</p> <p>10      organization and he was involved with narcotics</p> <p>11      transactions.</p> <p>12      Q. What made you believe he was part of the</p> <p>13      organization prior to his arrest?</p> <p>14      A. Three of the guys -- three of my dealers</p> <p>15      went to his area. Also, when Delee told Diggs that</p> <p>16      Kareem only had a bundle, he's going to call and</p> <p>17      we're going -- he got more. That was enough.</p> <p>18      Q. You didn't hear that?</p> <p>19      A. I didn't hear that. Officer Kelly did.</p> <p>20      Q. So you relied on Officer Kelly with that</p> <p>21      information, you relied on Officer Walker or</p> <p>22      Reynolds with the Delee, and the only thing that</p> <p>23      you had any personal knowledge with as the affiant</p> <p>24      of the probable cause was the fact that you went</p>	<p style="text-align: right;">Page 151</p> <p>1       property, however he got in?</p> <p>2       A. Right.</p> <p>3       Q. Wasn't there a concern on your part that</p> <p>4       perhaps he was engaged in some kind of illegal</p> <p>5       activity in that unit?</p> <p>6       A. No. I didn't believe so. I wasn't told</p> <p>7       anything about the property other than he went in.</p> <p>8       I don't know.</p> <p>9       Q. So is it fair to say that you had not even</p> <p>10      a suspicion at that point that whoever was driving</p> <p>11      that Bonneville, because he still wasn't</p> <p>12      identified --</p> <p>13      A. Exactly.</p> <p>14      Q. -- was engaged in any criminal activity</p> <p>15      was not part of this organization, at least at that</p> <p>16      point?</p> <p>17      A. At least at that point, yes.</p> <p>18      Q. And it's only until later when he was at</p> <p>19      55th Street that you believed that he -- in other</p> <p>20      words, that he became a player in this</p> <p>21      organization?</p> <p>22      A. Well, after being met -- earlier he was</p> <p>23      met by Delee that got in his car, but that was --</p> <p>24      and then after Delee, Tillman and Diggs, I believe,</p>
<p style="text-align: right;">Page 150</p> <p>1       back after he was arrested to try the key to see if</p> <p>2       it fit, right?</p> <p>3       A. That's correct.</p> <p>4       MR. BRIGANDI: Mike, as far as</p> <p>5       logistically, are we going to be done in</p> <p>6       the next 45 minutes or do we take a lunch</p> <p>7       break?</p> <p>8       MR. PILEGGI: I'll be done in the</p> <p>9       next hour.</p> <p>10      (There was a discussion held off the</p> <p>11      record.)</p> <p>12      BY MR. PILEGGI:</p> <p>13      Q. So let's get back to -- let me ask you a</p> <p>14      question, though.</p> <p>15      Kind of going back to Conestoga</p> <p>16      Street, why didn't you send an officer over there</p> <p>17      to secure it if you saw him go in with a key?</p> <p>18      Wasn't there a concern that maybe the drugs were</p> <p>19      stashed in there?</p> <p>20      A. No paperwork says he used a key to get in</p> <p>21      there.</p> <p>22      Q. But however he got in, wasn't there a</p> <p>23      concern -- you knew when he went into Conestoga,</p> <p>24      which was before 55th, that he was going into that</p>	<p style="text-align: right;">Page 152</p> <p>1       went to the property and met him and they went</p> <p>2       inside the property.</p> <p>3       Q. And also don't forget Officer Kelly is</p> <p>4       hearing them say, yo, Kareem is going to --</p> <p>5       A. Yes. It's in my paperwork.</p> <p>6       Q. I'm going to ask you again.</p> <p>7       Based on at least those two -- the</p> <p>8       observation of Delee getting out of the car and</p> <p>9       putting drugs in his pocket at Master Street and</p> <p>10      the statement that Kareem is going to go back and</p> <p>11      get more drugs or whatever, that didn't strike you</p> <p>12      as important that if he went into 1621 Conestoga</p> <p>13      that perhaps he was engaged in criminal activity?</p> <p>14      A. Not at that time, no.</p> <p>15      Q. So your suspicion only became aroused when</p> <p>16      he got to 55th Street; is that fair to say?</p> <p>17      A. Yes. And when the three males met up with</p> <p>18      him, yes.</p> <p>19      Q. And am I correct that even when you</p> <p>20      informed Officer Reynolds and Officer Walker that</p> <p>21      this Buick was going to come their way, which -- I</p> <p>22      meant to ask you that.</p> <p>23      How did you know that? Was that a</p> <p>24      guess?</p>

<p style="text-align: right;">Page 153</p> <p>1 A. Yeah. 2 Q. Pretty good guess? 3 A. Well, I said that it could be coming their 4 way. So, yeah. You know, sometimes you have a 5 feeling, I guess. 6 Q. Okay. Let me ask you this. Who informed 7 you that Torain was at 55th Street? 8 A. Either Brian Reynolds or Jeff Walker. 9 Q. Well, it had to be Brian Reynolds because 10 he's the one that saw him go in with a key? 11 A. Yeah. And Jeff had followed him to 12 Conestoga, and then, I believe, Jeff followed him 13 to 55th Street also. 14 Q. Okay. So at what point did these -- one 15 of those officers tell you that he was at 55th 16 Street? 17 A. I believe they possibly said that they 18 were setting up a surveillance. I don't know 19 exactly what time it was, but it was between the 20 time that he left Conestoga to the time Delee and 21 them pulled up. They were set up on a surveillance 22 of that property. 23 Q. Officer, I'm confused. You just told me 24 you didn't have any suspicions whatsoever until</p>	<p style="text-align: right;">Page 155</p> <p>1 MR. BRIGANDI: No, it's not. 2 According to you maybe. 3 MR. PILEGGI: Is that your 4 objection? 5 MR. BRIGANDI: I'm not having my 6 client rehash every answer that he's 7 already answered. 8 MR. PILEGGI: Is that your 9 objection? 10 MR. BRIGANDI: Yes. 11 MR. PILEGGI: All right. Are you 12 instructing him not to answer? 13 MR. BRIGANDI: No, but this isn't 14 going to continue. 15 BY MR. PILEGGI: 16 Q. Officer, when you told Reynolds to stop 17 him, did you want him to stop him to investigate 18 him or stop him to arrest him? 19 MR. BRIGANDI: Answer that for the 20 fifth time. 21 THE WITNESS: Stop him to arrest 22 him. 23 BY MR. PILEGGI: 24 Q. And what was your probable cause at that</p>
<p style="text-align: right;">Page 154</p> <p>1 these individuals left that unit and one of the 2 officers said they saw him put drugs in his pocket, 3 right? 4 A. Yes. 5 Q. It sounds like you were suspicious of them 6 before Diggs and Delee and Tillman ever left Master 7 Street to go over to 55th, weren't you? 8 A. Yes. I wanted to see what that was about. 9 Q. So whoever was driving the Bonneville was 10 on your radar at that point, weren't they? 11 A. Oh, yeah. Absolutely. 12 Q. And he was certainly on your radar when 13 you told -- instructed Officer Reynolds to stop 14 him, which really meant arrest him, right? 15 A. Yes. 16 Q. Did you mean just for him to stop him just 17 to -- 18 MR. BRIGANDI: Are we going to 19 rehash everything that he's testified to? 20 MR. PILEGGI: Yes, I am. 21 MR. BRIGANDI: Why are we rehashing 22 everything? 23 MR. PILEGGI: Because his testimony 24 is rather incongruent and inconsistent.</p>	<p style="text-align: right;">Page 156</p> <p>1 point? 2 A. I believe he was engaged in a drug 3 transaction. 4 Q. Okay. Because you saw the individuals 5 leaving the unit, correct? 6 A. Because of what they were -- leaving the 7 property, putting it in his pocket, that was 8 relayed back to me by Police Officer Walker. 9 Q. But at that point you did not know -- am I 10 correct that Officer Walker had not told you about 11 the light going on, right? 12 A. I don't recall when exactly he came over 13 to the radio and said that. 14 Q. Okay. Well, do you recall him coming over 15 the radio? 16 A. Yes. 17 Q. Or do you recall him saying it at some 18 other point? 19 A. I recall him coming over the radio with 20 that. 21 Q. But you just don't know when? 22 A. Yes. 23 Q. Do you think it was after the arrest of 24 Torain or before?</p>

<p style="text-align: right;">Page 157</p> <p>1 A. Before, I believe.      2 Q. I will tell you this. Officer Walker      3 testified -- you're aware that he sat for a      4 deposition?      5 A. Yes.      6 Q. I already asked you previously if you      7 reviewed his deposition, and you said no?      8 A. Right.      9 Q. But you did have discussions about what      10 the context of his deposition was, didn't you?      11 A. A little bit, yes.      12 Q. All right. Were you aware that Officer      13 Walker testified that he had a meeting with      14 yourself, Kelly, Reynolds and Walker at 55th Street      15 at the time when you showed up and you got the key      16 from Reynolds?      17 A. Okay.      18 Q. Were you aware of that?      19 A. If that's what he said, okay.      20 Q. And he said you walked on the side of the      21 building and the discussion was about linking      22 Torain to that middle bedroom that you eventually      23 searched?      24 A. That never happened.</p>	<p style="text-align: right;">Page 159</p> <p>1 steal.      2 Were you aware of that testimony?      3 A. No, I was not.      4 Q. And he testified that repeatedly these      5 officers, himself as well as Officer Reynolds,      6 would go into a unit before anybody knew with keys      7 and steal?      8 A. Was I mentioned?      9 Q. No. Actually, he also mentioned that he      10 never stole with you, but he did steal with      11 others --      12 MR. BRIGANDI: Is there a question?      13 BY MR. PILEGGI:      14 Q. -- on your team.      15 MR. PILEGGI: Well, he asked me the      16 question.      17 MR. BRIGANDI: Is there a question?      18 You're the one asking the questions.      19 MR. PILEGGI: Yeah.      20 MR. BRIGANDI: Ask him a question.      21 MR. PILEGGI: Thanks.      22 BY MR. PILEGGI:      23 Q. Were you aware of that testimony?      24 A. I heard similar things to it.</p>
<p style="text-align: right;">Page 158</p> <p>1 Q. Okay. So he was lying?      2 A. It never happened.      3 Q. He didn't have a discussion about the      4 light going on?      5 A. No. If that would have been, I would have      6 put that in my paperwork, but no.      7 Q. But you didn't put in the paperwork the      8 fact that he told you over the radio that he saw      9 the light go on?      10 A. True. Yeah. I didn't think I needed it.      11 Q. Okay. Well, you knew you would need it      12 when you went to court for prosecution, didn't you?      13 A. No, but that's what he said over the      14 radio.      15 Q. Well, you knew that you would have to show      16 -- and I'm going to use your words -- dominion and      17 control of that middle bedroom if you confiscated      18 drugs to show that Torain had dominion and control      19 of that particular bedroom and not somebody else      20 living in that house?      21 A. Based on the keys being used.      22 Q. Okay. Officer Walker also testified that      23 there were many times where they would go into      24 units with keys to see if there was anything to</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. And he mentioned that he stole with Kelly,      2 your partner?      3 A. I don't believe that.      4 Q. You may not believe it, but that was his      5 testimony. He stole with Reynolds.      6 A. I don't believe that.      7 Q. Okay. So Jeffrey Walker lied about all      8 that?      9 A. I don't know what he did.      10 Q. I mean, if he testified to that, that      11 would be a lie?      12 A. During the deposition, yes, it would be.      13 Yes.      14 Q. Well, under any circumstances.      15 A. It would be a lie, yeah.      16 Q. Now, if Jeffrey Walker said that he      17 participated with Reynolds in a search at Conestoga      18 that would be a lie too?      19 A. Yeah, because I don't recall any search      20 being done at Conestoga.      21 Q. You may not recall. Wouldn't you be      22 required to know that?      23 A. Yes, I would be.      24 Q. Okay.</p>

<p style="text-align: center;">Page 161</p> <p>1 A. And if it was done, I would have been 2 aware of it, but I was not aware of it because it 3 wasn't done. 4 Q. And if it was done and you were aware of 5 it, knowing that there was no warrant, what would 6 you have done? 7 A. If I was aware of it, I would have been 8 there, you know – that's hard to say. I wasn't 9 there. I don't believe it happened. 10 Q. So if you -- if it was done and you were 11 aware of it, you would have went over there and 12 participated with them in a warrantless search? Is 13 that what you're saying? 14 A. No. I'm not saying that. 15 Q. Would you have stopped them? 16 A. If they were over there and I didn't send 17 them over there, yes. I would have stopped them 18 and said I didn't instruct you to go here, which I 19 don't believe they did go there. 20 Q. Would you have informed someone, a 21 supervisor or a judge or someone of authority, that 22 there was a warrantless search conducted? 23 A. I would have brought it up with a 24 supervisor. Yes, I would have.</p>	<p style="text-align: center;">Page 163</p> <p>1 you go back, correct? 2 A. Yes. 3 Q. And this case is a pretty big case. There 4 was a lot of paperwork to prepare? 5 A. Yes, there was. 6 Q. I think there was close to probably 20 7 property receipts, cars were confiscated, drugs, 8 guns, and you're going to refer to the -- the last 9 page, correct? 10 A. Yes. There's a lot. There's a lot of 11 prop receipts. 12 Q. First of all, what was your shift that 13 day? 14 A. I actually think we might have had court. 15 I'm not positive. We probably came in right after 16 court. 17 Q. Well, you did testify -- and I'm going to 18 tell you this and you dispute me if I'm wrong -- 19 but you testified that you actually wanted to 20 conduct or execute the warrants on those three 21 properties on Master Street at 2 o'clock, but you 22 had to wait for personnel to come back from court. 23 Do you recall that? 24 A. No, I don't recall that.</p>
<p style="text-align: center;">Page 162</p> <p>1 Q. In this case you did not, correct? 2 A. Because it didn't happen. 3 Q. Okay. Now, at 1 o'clock – at some point 4 you went back to process the paperwork with regards 5 to 5605, 5607, 5609 as well as to procure a search 6 warrant for 55th Street, right? 7 A. Yes. 8 Q. All right. Am I correct that the 55th 9 Street warrant was not originally part of this job? 10 Is that fair to say? 11 A. Yes, it is. 12 Q. Because you had already observed the 13 search warrants before you even knew anything about 14 55th Street? 15 A. Yes. 16 Q. So you go back and part of your 17 responsibilities is to go back and process all the 18 evidence that was recovered out of these units as 19 well as other officers, but you are in charge of 20 marshalling all that paperwork, correct? 21 A. That and preparing the PARS report, which 22 is the arrest report, within a certain amount of 23 time, yes. 24 Q. So you have a lot of responsibilities when</p>	<p style="text-align: center;">Page 164</p> <p>1 Q. But do you recall wanting to execute the 2 warrants at 2 o'clock for whatever reason? 3 A. I'm not exactly sure what time we wanted 4 to, but we would have had to wait until everybody 5 came back to work. 6 Q. Right. Is it fair to say that you were at 7 55th Street from 3:50 for at least a half hour? 8 A. Yeah. I don't think I was there a lot 9 longer, but I'm not -- I don't know exactly how long, but I didn't spend a lot of time there. 11 Q. All right. When you were at 55th Street, 12 you went in, you see Walker in the property, maybe 13 somebody else. You're not sure. You go in. 14 Do you open up the front door with 15 the key? I mean the outer door. 16 A. I believe I did, yes. 17 Q. It wasn't open? 18 A. I don't recall. 19 Q. Okay. So, pursuant to your testimony, if 20 Walker was in the hallway, the door was closed and 21 he was just standing in the hallway securing it? 22 A. I don't recall where he was standing at. 23 Q. Nevertheless, you go inside and you don't 24 have a warrant at that point, correct?</p>

<p style="text-align: right;">Page 165</p> <p>1 A. Correct.      2 Q. You used the key to get into the building?      3 A. Yes.      4 Q. You go inside and you go to the second      5 bedroom, right?      6 A. Apartment, yes.      7 Q. How did you know to go to that apartment,      8 or did you try the keys in other apartments?      9 A. Police Officer Kelly had talked to one of      10 the Saunders or Sanders, and he gave him a      11 description of a male he thought was using that and      12 with the key opened up that apartment.      13 Q. Where did Officer Kelly talk to this      14 Saunders?      15 A. I believe either on the porch or on the      16 vestibule.      17 Q. But it was in the presence --      18 A. Yes.      19 Q. It wasn't on the telephone?      20 A. I don't recall where exactly.      21 Q. How did he -- Officer Kelly arrived with      22 you, right?      23 A. About the same time, yes.      24 Q. Where did this Saunders come from?</p>	<p style="text-align: right;">Page 167</p> <p>1 A. Correct.      2 Q. Was that individual asked specifically      3 about the middle bedroom?      4 A. I don't recall.      5 Q. How did you know where to go?      6 A. After Shawn Kelly was talking to the      7 individual and the key that he had.      8 Q. That who had?      9 A. That Torain had that we had in our      10 possession at the time.      11 Q. Right. The one that Reynolds gave you.      12 A. And Officer Walker at the time told us      13 that the light came on, and that's where the light      14 came on. We knew that was the apartment.      15 Q. Wait a minute. Officer, you're going to      16 say I'm going to rehash this, but I must.      17 You just testified repeatedly that      18 you didn't know when Officer Walker told you when      19 the light went on.      20 A. I said he came over police radio and he      21 said the light came on.      22 Q. Okay. Where?      23 A. One of the rooms. He didn't tell me what      24 rooms.</p>
<p style="text-align: right;">Page 166</p> <p>1 A. I don't recall.      2 Q. Wouldn't you as the lead investigator talk      3 to Saunders?      4 A. No. Officer Kelly was my partner. I      5 could have been talking to other officers on the      6 scene. I could have been talking to the      7 supervisor. I don't recall the exact time that we      8 got into the property or how we did it.      9 Q. Did anyone ask Mr. Saunders what his title      10 was, what his involvement with this property was?      11 A. That I'm not sure.      12 Q. Well, how did you even know who he was?      13 How did you know he wasn't some guy off the street?      14 A. In the conversation Officer Kelly had with      15 him he said he was the owner or manager of the      16 property.      17 Q. Okay. And was this before you tried the      18 key or after?      19 A. I think it was about the same time we were      20 trying the key.      21 Q. So you were trying to determine -- again,      22 you were doing an investigation by questioning this      23 individual whether Torain was somehow linked to      24 that property, correct?</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. My question is how did you determine which      2 room, because there's many rooms in there -- which      3 room to try the key?      4 A. When Officer Kelly was talking to the      5 manager who pointed to that room, we went over and      6 opened up the door.      7 Q. So it's your testimony that whatever the      8 manager told Officer Kelly he relayed that to you      9 and then you tried the key in the door?      10 A. Well, the vestibule. If I remember, it      11 was a congested area that we were in, and it was      12 kind of like a gesture. We walked over with the      13 key and opened up the apartment.      14 Q. Let me -- actually, let's look at a      15 picture of it. This is -- you're talking about the      16 hallway, right?      17 A. I believe, yeah.      18 MR. PILEGGI: If we can mark this as      19 four.      20 MR. BRIGANDI: What are we looking      21 at? Have these been produced? Are these      22 from my file?      23 MR. PILEGGI: No. I went and took      24 these pictures.</p>

<p style="text-align: right;">Page 169</p> <p>1           MR. BRIGANDI: When?</p> <p>2           MR. PILEGGI: About two weeks ago.</p> <p>3           MR. BRIGANDI: How do we know what</p> <p>4           the hell these are? Have you produced</p> <p>5           them?</p> <p>6           MR. PILEGGI: No.</p> <p>7           MR. BRIGANDI: I'm not letting him</p> <p>8           answer questions about pictures that you</p> <p>9           took.</p> <p>10          MR. PILEGGI: Are you kidding me?</p> <p>11          MR. BRIGANDI: You've got to be</p> <p>12          kidding me.</p> <p>13          MR. PILEGGI: Let's see if he</p> <p>14          recognizes it.</p> <p>15          MR. BRIGANDI: Black-and-white</p> <p>16          photos?</p> <p>17          MR. PILEGGI: Yeah. Let's see if he</p> <p>18          recognizes it. If he doesn't recognize</p> <p>19          it, we'll go from there.</p> <p>20          MR. BRIGANDI: Fair enough.</p> <p>21          - - -</p> <p>22          (Whereupon, Exhibit Monaghan-4 was</p> <p>23          marked for identification.)</p> <p>24          - - -</p>	<p style="text-align: right;">Page 171</p> <p>1           ago. Actually, let's do five and six so</p> <p>2           we can make it clear because there is an</p> <p>3           address on there if you want to say I put</p> <p>4           that address on there.</p> <p>5           MR. BRIGANDI: 1628 North 55th</p> <p>6           Street?</p> <p>7           MR. PILEGGI: Yes.</p> <p>8           - - -</p> <p>9           (Whereupon, Exhibits Monaghan-5 and</p> <p>10          Monaghan-6 were marked for</p> <p>11          identification.)</p> <p>12          - - -</p> <p>13          BY MR. PILEGGI:</p> <p>14          Q. Officer Monaghan, I'm showing you what has</p> <p>15          been marked as Monaghan-5 and 6.</p> <p>16          Does that refresh your recollection</p> <p>17          as to the unit that you went to on North 55th on</p> <p>18          that day?</p> <p>19          A. Yeah. It could have been.</p> <p>20          Q. Okay.</p> <p>21          A. It's been 16 years.</p> <p>22          Q. If you can read for the record -- it has</p> <p>23          an address, right?</p> <p>24          A. Yes.</p>
<p style="text-align: right;">Page 170</p> <p>1           BY MR. PILEGGI:</p> <p>2           Q. Officer, you've been shown what has been</p> <p>3           marked as Monaghan-4.</p> <p>4           A. Yes.</p> <p>5           Q. Now, we were discussing the hallway, the</p> <p>6           congested area.</p> <p>7           Does that refresh your recollection</p> <p>8           as to the hallway?</p> <p>9           A. Not at all.</p> <p>10          Q. Of course it doesn't.</p> <p>11          MR. BRIGANDI: Because it's so</p> <p>12          obvious what it is.</p> <p>13          THE WITNESS: I don't remember.</p> <p>14          MR. PILEGGI: Let's do this. Let me</p> <p>15          show you this.</p> <p>16          MR. BRIGANDI: It could be the</p> <p>17          hallway to your bathroom.</p> <p>18          MR. PILEGGI: Let's mark this</p> <p>19          Monaghan-5.</p> <p>20          MR. BRIGANDI: This is another</p> <p>21          picture taken by you?</p> <p>22          MR. PILEGGI: That is correct.</p> <p>23          MR. BRIGANDI: Recently?</p> <p>24          MR. PILEGGI: Same time. Two weeks</p>	<p style="text-align: right;">Page 172</p> <p>1           Q. Now, I will submit to you as an officer of</p> <p>2           the court that this is a picture of the hallway on</p> <p>3           the first floor.</p> <p>4           Does that refresh your recollection</p> <p>5           as to the hallway that you were in in North 55th</p> <p>6           Street, the property in Monaghan-5 and 6?</p> <p>7           A. Honestly, I don't remember the hallway.</p> <p>8           Q. That's fair enough.</p> <p>9           Now, you do remember -- when you say</p> <p>10          congested, you remember that it was a small</p> <p>11          hallway, right? It wasn't like a big hall,</p> <p>12          correct?</p> <p>13          A. I thought it was kind of bigger, but, you</p> <p>14          know, it could have been a small hallway. I'm not</p> <p>15          sure.</p> <p>16          Q. You actually went into the bedroom,</p> <p>17          correct, at some point?</p> <p>18          A. Yes, I did.</p> <p>19          MR. PILEGGI: We might as well mark</p> <p>20          these. These were also taken about two</p> <p>21          weeks ago. Monaghan-7 and Monaghan-8.</p> <p>22          There's one more picture that I'm marking</p> <p>23          as Monaghan-9.</p> <p>24          - - -</p>

<p style="text-align: center;">Page 173</p> <p>1                   (Whereupon, Exhibits Monaghan-7,    2                   Monaghan-8 and Monaghan-9 were marked for    3                   identification.)    4                   - - -    5     BY MR. PILEGGI:    6       Q. Let me just -- let's look at nine first.    7       That's the last one.    8       A. Yes.    9       Q. Does that refresh your recollection as to    10          the side of the building? It's a corner property,    11          right?    12       A. Yes.    13       Q. Does that appear to be the side of 1628    14          North 55th Street?    15       A. It appears to be.    16       Q. Okay. Now, can you point out which window    17          -- which apartment -- from looking at that    18          side-view of the building where you allege Torain    19          was in or where you confiscated the drugs from?    20       A. I can't point it out. I'm not sure which    21          one it is.    22       Q. Okay. Did Walker -- whatever Walker    23          informed you over the radio that he saw the light    24          go on, did he indicate from looking at that picture</p>	<p style="text-align: center;">Page 175</p> <p>1                   A. Yeah. We opened it.    2       Q. And you go into the bedroom, right?    3       A. Yes.    4       Q. Okay. Why were you going into the    5          bedroom?    6       A. To make sure nobody was in there hiding,    7          for our safety.    8       Q. Well, wait a minute. Correct me if I'm    9          wrong. The bedroom was maybe a little bit bigger    10          than a closet?    11       A. I forget what it looks like. I have no    12          clue what this is.    13       Q. Fair enough. Let's refresh your    14          recollection.    15       MR. PILEGGI: Can we mark this as    16          ten. I'm sorry. We did mark it.    17     BY MR. PILEGGI:    18       Q. We'll go back to Monaghan-6 and    19          Monaghan-7.    20       A. No. Seven and eight.    21       Q. Seven and eight. I'll submit to you that    22          that's a picture of the bedroom.    23       Does that refresh your recollection    24          of what you saw when you executed or when you went</p>
<p style="text-align: center;">Page 174</p> <p>1                   which window it was?    2       A. Not to me, no.    3       Q. So it's your testimony that when you went    4          inside that you knew what door to try based on    5          Walker saying the light as well as the landlord or    6          the manager who was talking to Kelly?    7       A. Yes.    8       Q. Okay. And then simultaneous with that at    9          some point you tried a key that fit the door?    10       A. Correct.    11       Q. Okay. It was a different key from what    12          fit the front door, correct?    13       A. I believe it was.    14       Q. All right. And that wouldn't make sense,    15          would it, if you were a drug dealer, you wouldn't    16          have the same key, would you?    17       A. Yes.    18       Q. Anybody could get in there?    19       A. Yes.    20       Q. Nevertheless, you tried the key and you    21          opened the door, right?    22       A. Yes.    23       Q. Meaning not only do you open it, but the    24          door is ajar?</p>	<p style="text-align: center;">Page 176</p> <p>1                   into the unit?    2       A. Not one bit. I don't know.    3       Q. But you did testify -- you recall    4          testifying that all that was in the room was a bed,    5          a bureau and a radio.    6       Do you recall that?    7       A. Not offhand, no.    8       Q. When you went into the unit, did you look    9          under the bed?    10       A. Under the bed, yes.    11       Q. Did you see anything?    12       A. No. I didn't look under. Somebody had to    13          look under for our safety.    14       Q. So it wasn't just one officer, you    15          yourself who opened the door, it was several    16          officers that went in that room?    17       A. I don't remember how many.    18       Q. Do you know who did it?    19       A. No, I do not.    20       Q. You would agree that that would be a    21          search, wouldn't you?    22       A. Not if we're looking for anybody hiding in    23          there, no.    24       Q. Isn't that what you get an arrest warrant</p>

<p style="text-align: right;">Page 177</p> <p>1 for? 2 A. Well -- 3 Q. In other words, you thought there was a 4 body in there? 5 A. Well, you never know. Somebody could be 6 hiding in there to ambush you when you go in. We 7 didn't know. So we go in there to secure the 8 property to keep it safe for us being in there. 9 Q. Okay. But you would agree if you look 10 under the bed that would be a search, wouldn't you? 11 Whatever the reason was you were searching or 12 whatever you were searching for it's still a 13 search, right, whether it's for a body -- 14 A. Yes. We're searching if anybody is hiding 15 in there. 16 Q. Did you look in the drawers? 17 A. No. 18 Q. How do you know? 19 A. Because I didn't, no. 20 Q. Well, you didn't, but did any of the other 21 officers that were in that room look in the 22 drawers? 23 A. I didn't see anybody look in the drawers, 24 no.</p>	<p style="text-align: right;">Page 179</p> <p>1 A. No. 2 Q. Are you sure? 3 A. I don't believe it does, no. 4 MR. PILEGGI: Let's mark this as 10. 5 I want to give a copy to -- 6 MR. BRIGANDI: Sir, could you 7 identify yourself for the record? 8 OBSERVER: Why is that? 9 MR. BRIGANDI: Why are you here? 10 What is your name, sir? 11 OBSERVER: I just showed my ID at 12 the desk. I don't need to give it again. 13 MR. BRIGANDI: Could you tell me 14 your name? 15 OBSERVER: Charles. 16 MR. BRIGANDI: What is your last 17 name, Charles? 18 OBSERVER: That's all you're 19 getting. 20 MR. BRIGANDI: Mike, do you know who 21 he is? 22 MR. PILEGGI: No. 23 MR. BRIGANDI: Why are you here, 24 sir?</p>
<p style="text-align: right;">Page 178</p> <p>1 Q. When you eventually went in there, there 2 was a safe found underneath the bed. Nobody saw 3 that? 4 A. On the 5th we saw it, but not on the 4th. 5 Q. So you think somebody went in there from 6 the 4th to the 5th and put a safe under that bed so 7 you could find it later? 8 A. No. I believe it was there. 9 Q. It was there. Just no one saw it. They 10 were just looking for a body, but they didn't see 11 the safe? 12 A. Yes. 13 Q. Okay. Isn't it correct that you actually 14 confiscated a safe on the 4th? 15 A. Yes, we did. 16 Q. You did. You took it out of the unit, the 17 safe? 18 A. No. I'm sorry. On the 5th. 19 Q. I'm asking you didn't you actually 20 confiscate the safe on the 4th? 21 A. No. 22 Q. That's what the paperwork says? 23 A. No, it does not. 24 Q. It does not?</p>	<p style="text-align: right;">Page 180</p> <p>1 OBSERVER: I'm observing. 2 MR. BRIGANDI: Do you know Mr. 3 Walker? 4 OBSERVER: No. 5 MR. BRIGANDI: Do you know Mr. 6 Torain, Kareem Torain? 7 OBSERVER: I know a family member of 8 his. 9 MR. BRIGANDI: Okay. Why are you 10 here, sir? 11 OBSERVER: I'm just here to observe. 12 MR. BRIGANDI: Sir, I'd ask you to 13 be removed from the courtroom. 14 OBSERVER: What is your name? 15 MR. BRIGANDI: My name is Armando 16 Brigandi. I'm the chief for the Civil 17 Rights Unit for the City of Philadelphia. 18 OBSERVER: Okay. 19 MR. BRIGANDI: You're related to 20 Kareem Torain? 21 OBSERVER: No. I'm not related to 22 Kareem Torain. 23 MR. BRIGANDI: You're a friend of 24 Kareem Torain?</p>

Page 181	Page 183
1                   OBSERVER: I'm not a friend.	1                   Corporal Sinclair was involved in this particular
2                   MR. BRIGANDI: How do you know	2                   case? Whether he was at the unit is another story,
3                   Kareem Torain?	3                   but he was one of the supervisors, right?
4                   OBSERVER: I know a family member of	4                   A. Yes. He should have been.
5                   his.	5                   Q. Now, what is the time on that, 3:30?
6                   MR. BRIGANDI: I'd ask that he be	6                   A. Yes, 3:30.
7                   removed from the courtroom.	7                   Q. That's the time of all the other property
8                   (Observer escorted from courtroom.)	8                   receipts and search warrants for 5605, 5607 and
9                   - - -	9                   5609, right?
10                  (Whereupon, Exhibit Monaghan-10 was	10                  A. Yes, it is.
11                  marked for identification.)	11                  Q. Now, what does it say was confiscated --
12                  - - -	12                  first of all, what is the address?
13                  BY MR. PILEGGI:	13                  A. Kind of blurred out, but it says -- it
14                  Q. I'm showing you what has been marked as	14                  looks like 8 North 55th Street, but I'll go with
15                  Monaghan-10 for identification.	15                  1628.
16                  What is that?	16                  Q. 1628 North 55th Street?
17                  A. It's the prop receipt.	17                  A. The defendant's name and 1628 North 55th
18                  Q. When you say the property receipt, there	18                  Street.
19                  were many property receipts on this job?	19                  Q. Is there any dispute that that is a
20                  A. Yes.	20                  property receipt of items that were confiscated on
21                  Q. Is it a property receipt for 55th Street?	21                  Thursday, January 4th, at 3:30 when you were over
22                  A. Yes, it is.	22                  at that unit for a safe and it looks like two empty
23                  Q. What is the date?	23                  amber pill bottles?
24                  A. It's kind -- honestly, it's kind of hard.	24                  A. Yes. There was a dispute because it
Page 182	Page 184
1                  Q. Well, doesn't it say 1/4/01? It's circled	1                  wasn't recovered then. It was recovered at 1
2                  1/4 and it says 3:30, correct?	2                  o'clock on the following day, which is the 5th.
3                  A. That's a four?	3                  Q. So more mistakes?
4                  Q. That's a four.	4                  A. Yes.
5                  A. Okay. I guess it does. It's hard.	5                  Q. And that's your responsibility? In fact,
6                  Q. It's your property receipt, right?	6                  you signed off on it? Didn't you pick up on that?
7                  A. I didn't prepare this.	7                  A. Yes, I did. No, I did not.
8                  Q. You did not?	8                  Q. It's pretty serious, isn't it?
9                  A. No.	9                  A. A lot of times what we do is being it was
10                 Q. May I see it again?	10                 -- we did all the takedowns on the 4th, we tried to
11                 A. Yes.	11                 keep all the paperwork uniform even with the
12                 Q. It's got your name on it?	12                 property receipts. Whoever filled this out tried
13                 A. Yes.	13                 to keep it -- now, they might have been given
14                 Q. You signed off on it?	14                 information to put this time down on the property
15                 A. Yes, I did, because I'm the assigned	15                 receipts. I don't know. I didn't fill this out.
16                 investigator.	16                 Q. Okay. But you would agree that that's a
17                 Q. Right. You're the one responsible for	17                 pretty serious miscalculation because it suggests
18                 this, correct?	18                 -- it doesn't even suggest -- it says that you
19                 A. But everybody in our unit would do	19                 confiscated the safe when you went in with the key
20                 property receipts.	20                 without a warrant, right?
21                 Q. But it's also signed off by Corporal	21                 A. Well, the paperwork-wise, but it's not
22                 Sinclair, correct?	22                 very serious because we can justify it by above
23                 A. Yes, that's correct.	23                 items were -- was confiscated at the time of
24                 Q. And that refreshes your recollection that	24                 execution of search and seizure warrant.

<p style="text-align: right;">Page 185</p> <p>1 Q. Okay. We'll get to that, but the point is 2 that a judicial officer looking at that would say 3 that's when it's confiscated, right? 4 A. Yeah. It would have been. 5 Q. Okay. And we don't want to lie to a 6 tribunal, do we? 7 A. No, not at all. 8 Q. That's a big mistake, isn't it? 9 A. It's a mistake, yes. 10 Q. In fact, it's a critical mistake that 11 could jeopardize the whole prosecution, couldn't 12 it? 13 A. I believe it could. 14 Q. And it also suggests that you went into a 15 property without a warrant and confiscated items 16 illegally, wouldn't it? 17 A. Other than just the date on there, that's 18 -- the only thing would be the date, yes. 19 Q. Really? And not the address or the time 20 that you were there without a warrant? 21 A. The date and time, yes. 22 Q. All right. So you're saying that this is 23 not the right property receipt, correct? 24 A. No. It's the right property receipt of</p>	<p style="text-align: right;">Page 187</p> <p>1 THE WITNESS: No. 2 BY MR. PILEGGI: 3 Q. No? 4 A. No. 5 Q. You didn't even take that into 6 consideration? 7 A. We didn't find a key. So that's the only 8 thing I can consider, is the key wasn't located. 9 Q. How did you get the safe open? 10 A. I'm not sure. I don't know who opened it, 11 how it was opened. 12 Q. Did you get a locksmith? 13 A. Most likely, it was probably forced open. 14 Q. Okay. When was it forced open? 15 A. Probably after we got back to the office. 16 Q. I don't want you to guess. 17 A. I'm not sure. 18 Q. Well, did you bust it open when you 19 confiscated it at the property? 20 MR. BRIGANDI: He just said he 21 wasn't sure, Mike. 22 MR. PILEGGI: I'm trying to narrow 23 him down. 24 BY MR. PILEGGI:</p>
<p style="text-align: right;">Page 186</p> <p>1 what was recovered, but the date and time is wrong. 2 Q. All right. I don't see anywhere on here 3 about drugs, right? 4 A. They would be on a separate property 5 receipt. 6 Q. Okay. When you eventually confiscated the 7 safe, none of the keys that you had from -- that 8 were already confiscated from Torain opened that 9 safe, right? 10 A. I don't believe we recovered keys. 11 Q. It wasn't a combination safe, right? 12 A. No. 13 Q. It was a key safe? 14 A. Yes, it was. 15 Q. And none of those keys opened that safe, 16 right? 17 A. I believe so, yes. 18 Q. Did that indicate to you -- did that 19 eviscerate in any way the probable cause against 20 Torain that he had dominion and control of any 21 illegal items confiscated out of that property? 22 MR. BRIGANDI: Objection. You're 23 asking for a legal conclusion, but you can 24 answer.</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. Do you think you broke it open at the 2 unit? 3 A. I don't believe I did. I don't know who 4 did. 5 Q. Well, who was with you when you conducted 6 the search of that unit? 7 A. Everybody in my squad. 8 Q. When I say "the search," I mean when you 9 executed the warrant at 1 o'clock in the morning. 10 A. Yes. 11 Q. Everyone from your squad was there? 12 A. Most likely, yes. 13 Q. Are they on the search warrant? 14 A. I don't know what I put on the search 15 warrant. 16 Q. Well, you're supposed to, right? Isn't 17 that proper protocol? 18 A. Yes. 19 Q. In fact, you did it with all the other 20 search warrants that were conducted at 5605, 5607 21 and 5609? There's nothing on this warrant. Let me 22 be fair about it and give you the warrant. 23 What is that, Monaghan -- 24 A. It's two.</p>

<p style="text-align: right;">Page 189</p> <p>1 Q. Monaghan-2. Tell me where -- in that box 2 where it says other officers participating in 3 search, what badges do you have? 4 A. I can't tell if there's any badges. 5 Q. There's no badges I'll submit to you. 6 A. Do you have the original copy of the 7 search warrant? 8 Q. I do not. 9 MR. BRIGANDI: What is the Bates 10 number? 11 MR. PILEGGI: Two. It's the actual 12 -- you gave it to Jim, I think. 13 BY MR. PILEGGI: 14 Q. Am I correct, Officer Monaghan, that you 15 would absolutely have to have badges in there as to 16 who also participated in the search pursuant to the 17 policies and procedures? 18 A. Yes. We're supposed to put down the 19 badges. 20 Q. Why didn't you do that? 21 A. I don't know. 22 Q. How do you recall who was with you? 23 A. Well, by knowing who was there when I 24 executed the warrant?</p>	<p style="text-align: right;">Page 191</p> <p>1 MS. CORTES: Actually, when you look 2 at a lot of other search warrants there 3 are badge numbers in there. 4 MR. BRIGANDI: But I'm wondering if 5 we have another copy of this search 6 warrant. I may have produced one. 7 MR. PILEGGI: You did. That's what 8 you produced. 9 MR. BRIGANDI: This was attached to 10 your complaint. 11 MR. PILEGGI: That's what you 12 produced. I got that off of the system. 13 MR. BRIGANDI: Mine are Bates 14 stamped, Mike. 15 MR. PILEGGI: Let's do this. I'm 16 going to do these collectively as 17 Monaghan-11. It's three -- 18 MR. BRIGANDI: Is this 99028? Is 19 that what this is? 20 MR. PILEGGI: Correct. 21 - - - 22 (Whereupon, Exhibit Monaghan-11 was 23 marked for identification.) 24 - - -</p>
<p style="text-align: right;">Page 190</p> <p>1 Q. Yeah. 2 You don't recall, do you? 3 A. No, I don't recall who was there. 4 Q. Could it have been yourself? 5 A. No. 6 Q. How do you know? 7 A. Because I know it wasn't myself. 8 Q. Why wouldn't you put down the numbers? 9 MR. BRIGANDI: I'm going to object 10 just in the fact that this copy is 11 terrible. I can't tell what's in there or 12 not in there. 13 MR. PILEGGI: There's nothing in 14 there. 15 MR. BRIGANDI: How do you know? 16 MR. PILEGGI: Let's do this. I'll 17 give him the other search warrants, which 18 are just as bad copies, and we'll see. 19 There's a million badge numbers in there. 20 I'm asking him on his own recollection. 21 MR. BRIGANDI: It very well is 22 possible that they aren't in there, but 23 this copy is very bad. 24 MR. PILEGGI: Let's do this.</p>	<p style="text-align: right;">Page 192</p> <p>1 BY MR. PILEGGI: 2 Q. Officer Monaghan, I'm showing you what has 3 been collectively given to you as Monaghan-11. 4 A. Yes. 5 Q. I'll submit to you these are the three 6 actual search warrants for 5605, 5607, 5609, right? 7 A. Yes. 8 Q. Do you see in the same box where -- in 9 Monaghan-2 where it has several badge numbers, 10 correct? 11 A. Yes. 12 Q. Can you see those badge numbers? 13 A. Yes. 14 Q. Pretty clearly, right? 15 A. Yes. 16 Q. In fact, one of the badge numbers is 17 Walker's badge number, right, 3730? 18 A. Yes. 19 Q. Another one is Reynolds' badge number, 20 correct? 21 A. Yes. 22 Q. I thought they were at the other unit at 23 55th Street? 24 A. They were.</p>

<p style="text-align: right;">Page 193</p> <p>1 Q. Why do you have their badge numbers as 2 officers executing warrants as 5605, 5607 and 5609? 3 They weren't even close to that -- 4 A. I believe I just went off the op plans and 5 I just put the badges down. That looks like mostly 6 our unit, and that's what I went by. Probably just 7 the op plans and I put down the badge numbers. 8 Q. Why isn't Corporal Sinclair or Jeannie 9 Gessners' badge in there? 10 A. I didn't use them. I put NFU south one 11 and west one, I believe. 12 Q. Well, is there any supervisor's badge 13 numbers in there? You said there had to be at 14 least -- at least one supervisor, but maybe as many 15 as three. 16 You didn't put them in there either, 17 did you? 18 A. I don't see the supervisor's badge 19 numbers. 20 Q. So you just put down people conducting the 21 search -- even if they weren't conducting it, you 22 put down their badge numbers because they were on 23 the team, correct? 24 A. Yes.</p>	<p style="text-align: right;">Page 195</p> <p>1 A. I don't believe I was. I was probably 2 doing paperwork, to the best of my knowledge. 3 Q. You keep saying "probably." 4 A. To the best of my knowledge. 5 Q. You were doing paperwork at 1 o'clock in 6 the morning? 7 A. I was doing paperwork until about late in 8 the afternoon that day. 9 Q. What paperwork did you do at 1 o'clock in 10 the morning in conjunction to the Torain case? 11 A. Recoveries of what we recovered. Probably 12 filling out biographical information of what I have 13 to fill out. I had a lot of paperwork still to do. 14 I wouldn't be surprised if I still had a couple 15 PARS I had to do. 16 Q. So it's your testimony that you go back at 17 some point after you're at 55th Street, you meet 18 with the manager, you go into the property with the 19 key. At some point you go back to process all the 20 arrestees and all the paperwork. You leave 21 somebody there to secure the unit at 55th Street, 22 right? Then you go and work on getting an 23 affidavit of probable cause for a warrant for 55th 24 Street that is later executed at 1 o'clock.</p>
<p style="text-align: right;">Page 194</p> <p>1 Q. You put nothing in the Torain affidavit, 2 right? 3 A. Yes. 4 Q. Okay. Do you think that was a mistake or 5 was that intentional? 6 A. No, it was not intentional. It was a 7 mistake. 8 Q. You don't recall who went back to the unit 9 with you at 1 o'clock to execute that search and 10 seizure warrant? 11 A. No, I don't. I don't recall who was all 12 there, no. 13 Q. I'm going to ask you again. Do you think 14 it could have been just yourself? 15 A. No. 16 Q. Why? 17 A. Because I know I wasn't the only one 18 there. 19 Q. Were you the one that confiscated the 20 safe? 21 A. I don't believe I grabbed the safe out, 22 but I was at that location when it was recovered. 23 Q. And you were not the one that broke open 24 the safe?</p>	<p style="text-align: right;">Page 196</p> <p>1 By the way, that warrant -- it looks 2 like it's approved by the DA and also by Jeannie 3 Gessner, right? 4 A. Bail commissioner. 5 Q. Well, it's also -- on the side, if you 6 look at Monaghan-2, it appears that Jeannie Gessner 7 actually approved -- 8 A. No. That's Monaghan-11. 9 Q. Okay. Monaghan-2. Does it appear that 10 the DA Albright approved it as well as Jeannie 11 Gessner? 12 A. Yes. Jeannie Gessner puts her approval on 13 there. 14 Q. So that warrant was done sometime before 1 15 o'clock, right? 16 A. For 55th Street? 17 Q. Correct. 18 A. Yes. 19 Q. Is it fair to say that Jeannie Gessner was 20 -- at least at that point when it was approved was 21 at headquarters or wherever you're processing the 22 paperwork? 23 A. Yes. It appears that way. 24 Q. So after that you get -- the bail</p>

<p style="text-align: center;">Page 197</p> <p>1 commissioner approves the warrant and then you go 2 back at 1 o'clock and search the unit and 3 confiscate a safe. You bring the safe back -- and, 4 by the way, did you find drugs independent of the 5 safe?</p> <p>6 A. No. The drugs were inside the safe. 7 Q. Are you sure? 8 A. Yes. 9 Q. Do you recall your testimony that the 10 drugs were found inside the bed frame? 11 A. Inside the safe, I believe. 12 Q. Do you recall your testimony being that 13 you found the drugs inside the bed frame? 14 A. No. 15 Q. But you recall specifically that the drugs 16 were in the safe? 17 A. Yes, I do. 18 Q. Do you recall seeing the drugs in the 19 safe? 20 A. Being told that the drugs were in the 21 safe. 22 Q. That's different. You didn't see the 23 drugs in the safe? Someone else told you that they 24 found drugs in the safe?</p>	<p style="text-align: center;">Page 199</p> <p>1 A. Yes. 2 Q. At what point did you tell the officers 3 who were securing the unit, whoever they were, from 4 4 o'clock in the morning until 1 o'clock in the 5 morning that they could leave? 6 A. Repeat that. 7 Q. At what point did you tell the officers 8 that were securing the unit from 4 o'clock in the 9 afternoon until 1 o'clock in the morning that they 10 could leave? 11 A. After we executed the warrant. 12 Q. Who were those officers? 13 A. I don't recall who exactly was all there. 14 Q. Well, do you think they were part of your 15 team or uniformed officers? 16 A. I believe they were part of our team. 17 Q. Again, wouldn't you have to put that in 18 your paperwork, at least with respect to once you 19 confiscated the safe, that you had had officers 20 securing that unit from the period of time of 4:00 21 o'clock when you were there the first time to 1:00 22 o'clock when you finally confiscated it? 23 A. I didn't put it in the paperwork. 24 Something like that should go in, but I didn't put</p>
<p style="text-align: center;">Page 198</p> <p>1 A. Yes. 2 Q. Who told you that? 3 A. I'm not sure. 4 Q. Do you think it's the same person that 5 broke open the safe? 6 A. Most likely. 7 Q. Was Officer Kelly working at that time at 8 one -- after 1 o'clock in the morning? I'm going 9 to say approximately 2 o'clock in the morning. 10 A. Yes, he was. 11 Q. Was he working on the same paperwork you 12 were working on? 13 A. He probably was and, most likely, he drove 14 me down to get the search warrant signed, affidavit 15 signed. 16 Q. Do you know if Officer Walker was working 17 at that time? 18 A. I believe so. 19 Q. And Officer Reynolds? 20 A. I believe so. 21 Q. And the other members of your team? 22 A. Yes. 23 Q. Okay. So once you get the drugs out of 24 the safe, they're tested, of course, correct?</p>	<p style="text-align: center;">Page 200</p> <p>1 it in. 2 Q. Officer, would you agree with me that 3 based just on the paperwork that it appears that 4 you actually confiscated the safe at 4:00 o'clock 5 in the afternoon when you went over there and then 6 backdated everything to appear that you went back 7 with a search warrant and confiscated the items 8 then? 9 A. Absolutely not. 10 Q. It doesn't. Okay. Let me show you -- 11 give me one second. 12 MR. PILEGGI: Let's mark this as 12. 13 - - - 14 (Whereupon, Exhibit Monaghan-12 was 15 marked for identification.) 16 - - - 17 BY MR. PILEGGI: 18 Q. Officer Monaghan, I'm showing you what has 19 been marked as Monaghan-12 for identification. 20 A. Yes. 21 Q. That's a property receipt, am I correct, 22 for -- it says inside -- we don't know what the 23 number is -- but it says South 55th Street, 24 apartment two?</p>

<p style="text-align: right;">Page 201</p> <p>1 A. Yes.      2 Q. Can we all agree that that is 1628 North      3 55th?      4 A. Yes.      5 Q. I don't want to belabor this, but another      6 mistake?      7 A. Yes. I wasn't the one who prepared this.      8 Q. Fair enough. Now, what is the date on      9 that one?      10 A. 1/5/01.      11 Q. Right. 1:00 a.m., correct?      12 A. 1:00 a.m., yes.      13 Q. And it says, "Confiscated three ripped      14 clear plastic baggies containing alleged crack      15 cocaine, approximately of all three clear bags is      16 17 grams"?</p> <p>17 A. Yes.      18 Q. It says, "Circumstances on 1/5/01 at      19 approximately 1:00 a.m. the above items were      20 confiscated from the above location after NFU,      21 narcotics field unit, southwest executed search and      22 seizure warrant 99028," correct?      23 A. Yes.      24 Q. It says it was field tested. "Police</p>	<p style="text-align: right;">Page 203</p> <p>1 is only on the two property receipts for North 55th      2 Street, right?      3 A. What do you mean?      4 Q. I use the word "highlighted" because I'm      5 trying to be fair about it.      6 A. Yeah.      7 Q. Okay. Does it appear that it looks like      8 it's erased and that there was a different date put      9 in?      10 A. It could be, yes.      11 Q. Would you -- do you recall doing that?      12 A. No, I did not.      13 Q. You did sign it though, right?      14 A. Yes, I did.      15 Q. Okay. And on this particular property      16 receipt the -- the supervisor who signed off on it      17 was Sergeant Gessner, right?      18 A. Yes.      19 Q. And on the other property receipt for the      20 safe dated 1/4 at 3:30, it was signed off by      21 Corporal Sinclair, right?      22 A. Yes.      23 Q. But it's your testimony that these      24 property receipts were done at the same time</p>
<p style="text-align: right;">Page 202</p> <p>1 Officer Monaghan conducted a B&amp;D test on the sample      2 of the above which tested positive for presence of      3 cocaine base," right?      4 A. Yes.      5 Q. Now, you would agree that this -- first of      6 all, do you know what all that dark color is with      7 the dates? It looks like somebody was trying to      8 erase the date?      9 A. I don't know what it is.      10 Q. Is that what it looks like to you? Do you      11 think you were the one who was erasing that date?      12 MR. BRIGANDI: Objection. This is a      13 typed thing. It could be a highlight.      14 It's ridiculous.      15 MR. PILEGGI: Okay. It is      16 ridiculous. I agree.      17 MR. BRIGANDI: It's ridiculous that      18 you are implying that someone tried to      19 erase this.      20 MR. PILEGGI: It's ridiculous.      21 MR. BRIGANDI: It is.      22 BY MR. PILEGGI:      23 Q. Whatever this is, the highlight, do you --      24 well, let's do this. It seems like this highlight</p>	<p style="text-align: right;">Page 204</p> <p>1 because when you confiscated the safe and it was      2 opened you found the drugs inside the safe? When I      3 say "you," I'm meaning another member of the --      4 A. On the 5th, yes.      5 Q. Correct?      6 A. Yes.      7 Q. Do you know why Sergeant Gessner signed      8 this property receipt for the drugs and not the      9 property receipt for the safe that was confiscated      10 at the same time?      11 A. No. Either supervisor could have signed      12 it. Whoever was sitting at the desk, you walk in      13 with the property receipts and the -- many a times,      14 a couple hundred times, I would walk in and say,      15 Jean, Gary, can you sign this so I can get the      16 signs real fast. It all depended on who you wanted      17 to give it to to sign it.      18 Q. Okay. But you were doing --      19 A. I'm not saying I did. I'm saying that      20 somebody came up to me and handed me the prop      21 receipt. I signed it and then they take it to a      22 supervisor. It all depends on who wanted to go to      23 which supervisor to sign it.      24 Q. Let me ask you this. Do you recall</p>

<p style="text-align: center;">Page 205</p> <p>1 actually doing this property receipt? When I refer 2 to "this property receipt," I'm referring to 3 2308223, which is the drugs. 4 A. No. That's not one of my property receipts. 5 Q. Okay. Is it fair to say that these 6 property receipts would have been done at the same 7 time? And when I say "these," I mean 2308223 and 8 then the property receipt for the safe, which was 9 2308224. 10 A. Yeah, but from the way this is typed, two 11 different individuals typed this. 12 Q. I was going to ask you that. 13 A. Yeah. 14 Q. It looks like two different typewriters? 15 A. Two different typewriters, what's 16 typed. We used to go by a format. Obviously, 17 different ways of doing the format. 18 Q. Now, you would agree, though, that whoever 19 did this -- first of all, you're responsible for 20 whoever did this ultimately, correct? 21 A. I would say I am, yes. 22 Q. If there was a mistake done, you're aware 23 that once it's put into the system that you have to</p>	<p style="text-align: center;">Page 207</p> <p>1 hypothetical. Let's assume that you made a mistake 2 with regards to the involvement of Kareem Torain. 3 Is it your testimony that then you 4 would have to come forward if he's sitting in jail 5 to rectify that mistake? 6 A. If you honestly and truly made a mistake? 7 Q. Yeah. 8 A. And you're saying that you should go to 9 somebody and say it? Yeah. Hypothetically, if you 10 made a mistake, yes, but in this case, there was 11 not a mistake made. 12 Q. Well, we just went over there was repeated 13 mistakes being made. 14 A. With him being incarcerated. 15 Q. So you're saying that none of the 16 paperwork that you made a mistake on contributed to 17 his incarceration? 18 MR. BRIGANDI: You're going to have 19 to repeat that. I don't understand the 20 question. 21 MR. PILEGGI: It only matters if he 22 understands it. 23 MR. BRIGANDI: Do you understand the 24 question?</p>
<p style="text-align: center;">Page 206</p> <p>1 do another memorandum to correct the mistake once 2 it's put into the system, right? 3 A. No. I'm not aware of that. 4 Q. So is it your testimony that if you do 5 paperwork and there is a mistake, a different date 6 or maybe the wrong person, that you don't have to 7 correct it in any way? 8 A. Obviously, it looks like one -- it looks 9 like they were trying to correct something on this, 10 but there's no paperwork you have to do if you mess 11 up on paperwork. 12 Q. I guess my question is if there is a 13 mistake in any part of the job, whether it's the 14 property receipt, whether it's a search warrant, 15 whether it's part of the surveillance, aren't you 16 required to notify someone -- a supervisor that you 17 made a mistake? I mean, doesn't that all go to the 18 probable cause and whether you can prosecute 19 someone? 20 A. If you catch it in time. If you don't 21 catch it, you really can't go to a supervisor. If 22 you make a mistake on paperwork, you would try to 23 rectify it yourself. 24 Q. Let me ask you this. This is a</p>	<p style="text-align: center;">Page 208</p> <p>1 THE WITNESS: No. 2 MR. PILEGGI: Of course he doesn't. 3 BY MR. PILEGGI: 4 Q. Officer, are you saying that you don't 5 have to correct -- that any of these mistakes that 6 were made on this paperwork didn't contribute to 7 his prosecution and his conviction? 8 A. The mistakes didn't contribute to it. The 9 paperwork all contributed to it. 10 Q. Well, mistakes on the paperwork. That's 11 what I mean. 12 A. Well, I noticed, yeah, some mistakes. 13 Q. And what I'm asking you is looking at this 14 as a neutral detached authority, wouldn't you have 15 to point out to somebody that there was mistakes 16 made in the paperwork that could ultimately lead to 17 whether this person is convicted or not? 18 MR. BRIGANDI: Objection to the 19 form. You can answer it. 20 THE WITNESS: Everybody makes 21 mistakes on paperwork. Typing. It could 22 be a typographical mistake. It could be a 23 human mistake. 24 BY MR. PILEGGI:</p>

<p style="text-align: right;">Page 209</p> <p>1 Q. Let me rephrase the question. So it's 2 your testimony that none of the mistakes that were 3 made in the paperwork contributed in any way to the 4 probable cause? 5 A. I don't believe so, no. 6 Q. And the fact that the paperwork appears 7 that you confiscated items out of a unit without a 8 search warrant, a/k/a probable cause, didn't 9 contribute in any way to Mr. Torain sitting in jail 10 for 13 years? 11 A. It might appear that way, but no. 12 Q. Appear to who, to a judge? 13 A. The mistakes in the paperwork. 14 Q. But aren't these your certifications? 15 Isn't this like testifying under oath? 16 A. Yeah. 17 Q. The paperwork? 18 A. Yes. 19 Q. In fact, didn't you rely on your paperwork 20 when you testified in court in prosecuting Mr. 21 Torain? 22 A. Yes. 23 Q. Okay. And didn't you -- you didn't point 24 out to anybody in court that you made any mistakes,</p>	<p style="text-align: right;">Page 211</p> <p>1 THE WITNESS: I can't make them 2 appear. I don't know where they're at. 3 BY MR. PILEGGI: 4 Q. Let me ask you. Mr. Torain didn't appear 5 on any of those tapes, did he? 6 A. I'm not sure. I would have to review the 7 tapes. 8 Q. Well, do you recall when you reviewed your 9 testimony you testified that you did not identify 10 Mr. Torain while the videotapes were rolling? 11 A. I forget. 12 Q. Well, you agree, would you not, that if 13 you did not identify Mr. Torain on those tapes, 14 that you certainly at that point did not have 15 probable cause that he was involved or even a 16 reasonable suspicion that he was involved in this 17 drug organization? 18 A. Just because he wasn't on the tape -- like 19 I said, we didn't video the whole time. 20 Q. But you had not seen him even off the 21 tape, did you? 22 A. What do you mean? 23 Q. You didn't pick him up -- you didn't even 24 know he was involved in any way until you saw the</p>
<p style="text-align: right;">Page 210</p> <p>1 did you? 2 A. I believe it was pointed out about that 3 property receipt, I believe. 4 Q. Where? 5 A. At one of the hearings. 6 Q. At one of the hearings? 7 A. Yes. 8 Q. Okay. Were you aware that the videotapes 9 that you took for two days, over the course of two 10 days, were missing in this case? 11 A. I am aware of that. 12 Q. Do you think that's important? 13 A. Well, the videotapes were given to the 14 district attorney. What the district attorney's 15 office did with them tapes, I have no clue. 16 Q. Not my question. Don't you think those 17 tapes are important to the prosecution or the 18 innocence of Mr. Torain? 19 MR. BRIGANDI: Well, they were 20 available for the prosecution of Mr. 21 Torain. I think the record makes that 22 clear. 23 MR. PILEGGI: Okay. I'm talking 24 about now.</p>	<p style="text-align: right;">Page 212</p> <p>1 Bonneville? 2 MR. BRIGANDI: Are we going to 3 rehash this all again for the fifth time? 4 MR. PILEGGI: Yes. I'm going to do 5 it actually for the sixth time. 6 THE WITNESS: Yes, I didn't know. 7 BY MR. PILEGGI: 8 Q. And you didn't know he was involved when 9 he was followed to Conestoga Street, right? 10 A. Right. 11 Q. And you didn't know he was involved when 12 he was followed to 55th Street, right? 13 A. Right. 14 Q. And, in fact, according to you, you didn't 15 even think you had probable cause until you saw 16 three individuals leaving that rooming house, that 17 apartment house, right? 18 A. Yes. 19 Q. Okay. Then later on when you tried the 20 key, that's when you put it all together that 21 Torain was the individual in that middle bedroom 22 based on the key and based on Officer Walker 23 telling you that he saw a light go on? 24 A. True.</p>

<p style="text-align: right;">Page 213</p> <p>1 Q. And you don't ever recall having a 2 discussion prior to trial or any proceeding, 3 preliminary hearing, with Officer Walker about the 4 light going on, right? 5 A. I said that Officer Walker came over the 6 radio. 7 Q. Right, other than that. 8 But you don't remember any 9 discussion after that about the light going on? 10 A. I don't remember that. We could have had 11 a discussion sitting in a room before the 12 preliminary hearing. I'm not sure. 13 Q. Okay. In fact, isn't that the way it 14 goes? You sit down with all the officers and they 15 all go over what they're going to testify to? 16 A. Well, yeah, you review your notes. 17 Q. And, lastly, you had no idea that 18 Conestoga Street was searched? 19 A. Yes. Correct. 20 Q. And that certainly wasn't part of the 21 probable cause, correct? 22 A. Correct. 23 Q. By the way, did you have any discussions 24 with Kareem Torain after his arrest?</p>	<p style="text-align: right;">Page 215</p> <p>1 inside the vehicle. I'm not sure. 2 Q. Do you think that was confiscated out of 3 Conestoga Street? 4 A. I don't think so. 5 Q. Could it have been? 6 A. I don't know. 7 Q. But on the 229, the biographical 8 information, what is his address listed as, do you 9 recall? 10 A. I don't recall. 11 Q. Conestoga. If I told you Conestoga, would 12 that surprise you? 13 A. No. 14 Q. Okay. And there was no independent 15 investigation to see if he actually lived at 16 Conestoga? 17 A. Just from what he said then. If he said 18 he lived at Conestoga, but he has keys that opens 19 the door into 55th Street. 20 Q. Officer, do you think any officers went 21 into 55th Street to steal at any time? 22 A. I don't believe it, no. 23 Q. Officer Walker testified that he stole 24 repeatedly.</p>
<p style="text-align: right;">Page 214</p> <p>1 A. I don't recall. 2 Q. Would you have discussed that with him 3 after his arrest? 4 A. No. I don't think I would have had any 5 discussion with him. 6 Q. Do you know if Officer Reynolds did? 7 A. Officer Reynolds placed him under arrest. 8 So he had to talk to him in order to get the 9 biographical information out of him. 10 Q. Well, don't you just get his license? 11 A. I don't believe he had a license on him. 12 Q. How do you know? Did Officer Reynolds 13 tell you that? 14 A. We would have confiscated it. We never 15 confiscated a license. So I don't know what he had 16 on him. 17 Q. Only keys? 18 A. Money. 19 Q. Cell phone? 20 A. I believe there was paperwork recovered 21 too from the Commonwealth of Pennsylvania for 22 something. 23 Q. Where was that recovered? 24 A. That -- I'm not sure if it was on him or</p>	<p style="text-align: right;">Page 216</p> <p>1 Do you not believe that he maybe 2 went in there to steal? 3 A. I don't believe so. I never seen Police 4 Officer Walker steal anything. If he did, I would 5 have notified a supervisor. 6 Q. But he's admitted to that repeatedly. 7 Do you say that you don't have 8 personal knowledge of that? 9 A. I do not have personal knowledge. No, I 10 do not. 11 Q. In your testimony you said that you later 12 found out that Torain resided at 1621 North 13 Conestoga. 14 Do you know how you later found that 15 out? 16 A. Probably from the 229, the biographical 17 sheet. 18 Q. Okay. And you think that that's something 19 that he informed Officer Reynolds when he was 20 arrested? 21 A. It might have been, yes, or the uniformed 22 officers. I'm not sure who filled out the 23 biographical information. 24 Q. You also testified -- and this was -- and</p>

<p style="text-align: right;">Page 217</p> <p>1 just let me ask you the question first. Then we'll 2 go over where it is. I believe this is the May 6th 3 testimony. This is the motion to suppress. 4 You also testified that Officer 5 Reynolds gave you a description of the individual 6 who went into Conestoga Street as a tall male, 7 light-skinned. 8 Do you recall that? 9 A. No, I don't recall that. 10 Q. What was -- if someone gave you -- that 11 would be the normal process, right, that you would 12 want to have a description so if you needed to 13 arrest that person, you would know who you're 14 arresting? 15 A. Well, if you wanted to give it, yes, the 16 description of the male getting out of the vehicle. 17 Q. But -- right. This was the person that 18 was getting out of the vehicle, right? 19 A. Okay. 20 Q. So is it fair to say that at least when he 21 went into Conestoga he was under investigation and 22 you had some suspicion because you've testified repeatedly that he wasn't under investigation? 24 A. He was a person of interest at that time.</p>	<p style="text-align: right;">Page 219</p> <p>1 Q. It's not supposed to be testifying. It is 2 a question from the DA, but it does sound like 3 testimony. Here's the question from the DA. 4 "Okay. We get to the person. Then 5 goes in the green Bonneville. Then goes to 1628 -- 6 is it South 55th or North 55th Street?" Then you 7 respond -- 8 MR. BRIGANDI: Is this his 9 testimony? Do we know that? 10 MR. PILEGGI: Yes, this is his. 11 BY MR. PILEGGI: 12 Q. It says, "It's North 55th. 13 Question: "North 55th, okay. The 14 person then goes into that location, correct?" 15 Then you answer, "That's correct." 16 Question: "All right. Now, Officer 17 Walker sees the person enter the location, 18 correct?" 19 "That's correct." 20 But we know that's not correct? It 21 was actually Officer Reynolds that saw him go in 22 that location, right? 23 A. Yes. 24 Q. So that's incorrect, not only paperwork,</p>
<p style="text-align: right;">Page 218</p> <p>1 Q. Person of interest? 2 A. Yes. 3 Q. Okay. You testified -- this was your 4 testimony. This, again, was on May 6th. Actually, 5 let me read it to you to be fair about this. 6 - - - 7 (Whereupon, Exhibit Monaghan-13 was 8 marked for identification.) 9 - - - 10 BY MR. PILEGGI: 11 Q. All right. Officer Monaghan, I'm showing 12 you what has been marked as Monaghan-13. I'll 13 submit to you that is the first day of the trial, 14 but it was really actually a motion to suppress I 15 believe it was the arrest of Torain. It wasn't 16 dealing with the unit. It was dealing more with 17 the arrest, I believe. 18 A. Okay. 19 Q. If you could turn to page 53. Actually, 20 I'm sorry. Let's start with 52. Down at the 21 bottom it says -- this is a question. 22 "Okay. We get to the person then 23 goes in the green -- 24 A. Now, who's testifying here?</p>	<p style="text-align: right;">Page 220</p> <p>1 but now we have incorrect testimony, right? 2 A. That was a question. So I didn't -- 3 Q. But you agreed with it? 4 A. Okay. Yeah. 5 Q. It's your testimony, right? 6 A. Yes. 7 Q. So it's incorrect, right? 8 A. Right. 9 Q. Do you think that has anything to do with the probable cause? 10 A. No, because we didn't do anything for 11 1621. 12 Q. Fine. Then it says, "Okay. Is watching 13 them from his car; is that correct?" 14 "I'm not sure where he's watching 15 them from." 16 Question: "Sees a person enter and 17 then sees a light come on in the middle bedroom at 18 the location; is that right?" 19 "I believe so, yes. That's what he 20 related back to me." 21 Question: "I take it to mean that, 22 and correct me if I'm wrong, but he didn't see the 23 person enter a particular room, but he believed the</p>

<p style="text-align: right;">Page 221</p> <p>1 person went onto that room that had the light go 2 on."</p> <p>3 Then you say, "I believe so. I'm 4 not sure what room he believes they went into at 5 that time."</p> <p>6 A. Yeah. I wasn't sure.</p> <p>7 Q. Okay. But in all of the other paperwork 8 and all of the other testimony it says he went into 9 the middle bedroom, right?</p> <p>10 A. Yeah. After we knew what bedroom it was, 11 yes.</p> <p>12 Q. Okay. In other words, after you went in 13 with the key, you were trying to establish the 14 probable cause for that bedroom, right?</p> <p>15 A. With the key, yes.</p> <p>16 Q. So is it fair to say at least at the time 17 of Mr. Torain's arrest that you did not even know 18 what bedroom he went into? Is that fair to say?</p> <p>19 A. I didn't know. Not that the time.</p> <p>20 Q. No one knew according to your testimony?</p> <p>21 A. Well, Jeff is the one that saw the light 22 turn on. So I'm not sure which room he thought it 23 was.</p> <p>24 Q. But didn't you need to ascertain that</p>	<p style="text-align: right;">Page 223</p> <p>1 Q. Okay. On page 55 of that same transcript 2 -- I'm sorry. It starts on 54 is the question. 3 Well, let me clarify something. I said it was the 4 DA questioning you. It was not. It was the 5 defense attorney, Mr. Torain's attorney.</p> <p>6 But on page 54 it starts, "And from 7 what Officer Walker has told you at this point he 8 hasn't seen that person receive any drugs either, 9 correct?" I'm sorry. Let me back up.</p> <p>10 It says, "Okay. You tell Officer 11 Walker to stop the person who was driving the green 12 Bonneville, right?"</p> <p>13 "That's correct."</p> <p>14 Well, that is incorrect, right, 15 because it was actually Officer Reynolds who you 16 told to stop the car, right?</p> <p>17 A. Yes.</p> <p>18 Q. Another mistake, right?</p> <p>19 A. Typographical mistake. I don't know.</p> <p>20 Q. Typographical. This is a transcript, an 21 official transcript, from the court?</p> <p>22 A. You're saying they never make a mistake on 23 this?</p> <p>24 Q. You're saying you didn't testify to that?</p>
<p style="text-align: right;">Page 222</p> <p>1 before you went over there after he was arrested?</p> <p>2 A. To who?</p> <p>3 Q. Didn't you need to ascertain that Torain 4 went into the middle bedroom where you eventually 5 said you found drugs before his arrest and not 6 after?</p> <p>7 A. No. We ascertained that once we got there 8 to secure it.</p> <p>9 Q. After he was arrested, right?</p> <p>10 A. Yes.</p> <p>11 Q. But didn't you need to know that for the 12 probable cause to arrest him in the first place?</p> <p>13 A. No.</p> <p>14 Q. Just the mere fact that he went into any 15 building was enough?</p> <p>16 A. I believe that we had enough probable 17 cause to arrest him at the time.</p> <p>18 Q. My question is just by the mere fact of 19 him going into a building according to Officer 20 Reynolds?</p> <p>21 A. And what was seen by Police Officer Walker 22 at the time.</p> <p>23 Q. That he went into a bedroom?</p> <p>24 A. And when the three guys came out, yes.</p>	<p style="text-align: right;">Page 224</p> <p>1 A. I don't remember. I don't remember, but, 2 like I said, I instructed over radio to stop the 3 vehicle. Officer Reynolds went down and stopped 4 the vehicle.</p> <p>5 Q. No. You specifically told Officer 6 Reynolds to stop the vehicle, which was synonymous 7 with you with arresting him, right?</p> <p>8 A. It says that here, but I don't remember.</p> <p>9 Q. It says it also in your paperwork that you 10 told Reynolds to stop him, not Walker?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. "At this point, again, you've not 13 seen that person in the green Bonneville have any 14 drugs or receive any drugs or give any drugs or 15 even receive or give any money at this point, 16 correct?"</p> <p>17 "I did not."</p> <p>18 "And from what Officer Walker has 19 told you, at this point he hasn't seen that person 20 receive any drugs either, correct?"</p> <p>21 "To the best of my knowledge, no, 22 not at this time."</p> <p>23 "Well, it's fair to say he would 24 have said something to you if he had seen that?"</p>

<p style="text-align: right;">Page 225</p> <p>1           "Yes, he would have."</p> <p>2           Okay. So based on that, you didn't 3 see Torain engage in any criminal activity. Walker 4 didn't see Torain engage in any activity. So that 5 only leaves Reynolds.</p> <p>6           Did Reynolds tell you anything --</p> <p>7           A. That was somebody handing Torain 8 something. Torain -- I never said anybody handed 9 him anything.</p> <p>10          Q. No. No. Let me read it again. It 11 says --</p> <p>12          MR. BRIGANDI: What page are you on?</p> <p>13          MR. PILEGGI: This is page 54 at the 14 bottom, line 20.</p> <p>15          BY MR. PILEGGI:</p> <p>16          Q. "At this point, again, you've not seen 17 that person in the green Bonneville," meaning 18 Torain, who you later found out was Torain, "have 19 any drugs or receive any drugs or give any drugs or 20 even receive or give any money at this point, 21 correct?"</p> <p>22          Do you see that? I think he covered 23 all bases, that attorney, with that question. .</p> <p>24          MR. BRIGANDI: What is the answer,</p>	<p style="text-align: right;">Page 227</p> <p>1           got you over that hump that Torain was engaged in 2 any criminal activity, if anything?</p> <p>3           A. He didn't tell me. He arrested him at 4 61st and Nassau.</p> <p>5           Q. Again, is it a fair statement to say that 6 he was arrested on mere speculation?</p> <p>7           A. No.</p> <p>8           Q. No. You had concrete facts?</p> <p>9           A. Not concrete. We had facts.</p> <p>10          Q. Okay. Not according to your testimony, 11 though, right?</p> <p>12          MR. BRIGANDI: That is your opinion, 13 Mike. Don't answer that.</p> <p>14          MR. PILEGGI: No. No. That's what 15 the testimony says.</p> <p>16          MR. BRIGANDI: Don't ask him opinion 17 questions.</p> <p>18          BY MR. PILEGGI:</p> <p>19          Q. You didn't even know he was Kareem Torain 20 until after he was arrested; is that correct?</p> <p>21          A. Yes, as I stated.</p> <p>22          Q. You didn't know that he lived at Conestoga 23 until after he was arrested, right?</p> <p>24          A. True.</p>
<p style="text-align: right;">Page 226</p> <p>1           because I can't read it on mine?</p> <p>2          MR. PILEGGI: "I did not."</p> <p>3          MR. BRIGANDI: May I see yours?</p> <p>4          THE WITNESS: Yeah.</p> <p>5          BY MR. PILEGGI:</p> <p>6          Q. So, in other words, Officer Monaghan, you 7 or Officer Walker did not see Torain engage in any 8 criminal activity, whether it was drugs, accepting 9 money, giving money, receiving drugs, giving drugs? 10 You didn't see him doing any of that, right?</p> <p>11          A. Like I stated earlier, Walker saw Delee 12 coming out, placing a bag out of the property into 13 his jacket, which he believed to be narcotics. I 14 didn't say that Torain handed the drugs. Walker 15 didn't say Torain handed the drugs to him.</p> <p>16          Q. So you would agree with me that at that 17 point either yourself or Officer Walker had not 18 seen Torain engage in any criminal activity?</p> <p>19          A. Yes.</p> <p>20          Q. I'm not talking about Delee or Tillman.</p> <p>21          A. Yes.</p> <p>22          Q. That's fair to say?</p> <p>23          A. Sure.</p> <p>24          Q. So what did Officer Reynolds tell you that</p>	<p style="text-align: right;">Page 228</p> <p>1           Q. Let me give you another opportunity. You 2 do not have any information that Conestoga was ever 3 searched by any officer?</p> <p>4          A. Yes. Correct.</p> <p>5          MR. PILEGGI: Just give me one 6 second. I think I may be done.</p> <p>7          BY MR. PILEGGI:</p> <p>8          Q. Again, you weren't privy to this, but I 9 will represent to you that Officer Walker testified 10 that -- first of all, he testified that he gave 11 false testimony at trial with regards to Torain's 12 prosecution and conviction.</p> <p>13          Were you aware of that?</p> <p>14          A. No, I was not.</p> <p>15          Q. Okay. And he said that he was instructed 16 to lie about the light coming on to link Torain in 17 the middle bedroom by you.</p> <p>18          Were you aware of that?</p> <p>19          A. Yes.</p> <p>20          Q. Okay. And you've already testified that's 21 incorrect. He lied about that.</p> <p>22          Do you know what incentive Mr. 23 Walker, former Officer Walker, would have to lie 24 about that now?</p>

<p style="text-align: right;">Page 229</p> <p>1 A. No.      2 Q. Okay. Were you also aware that he      3 testified that Torain's arrest was illegal even      4 just based on the paperwork, meaning all the      5 mistakes in the paperwork?      6 MR. BRIGANDI: Is there a question?      7 MR. PILEGGI: Yes.      8 BY MR. PILEGGI:      9 Q. Were you aware of that?      10 A. No, I wasn't.      11 Q. Would you agree with that?      12 A. No.      13 Q. You would agree, however, if Officer      14 Walker lied about the light coming on -- had he      15 done so, that it would be an illegal arrest of      16 Torain?      17 A. If he had lied about what he told us,      18 yeah, it would.      19 * Q. Who was the confidential source?      20 MR. BRIGANDI: No. Mike, you know      21 better than that. You can't give out the      22 identity of the confidential source.      23 That's subject to a confidentiality order.      24 You can't put that on the record. You</p>	<p style="text-align: right;">Page 231</p> <p>1 court order if he answered it.      2 MR. PILEGGI: No, we wouldn't.      3 MR. BRIGANDI: Yes, we would. Read      4 the docket. Learn the case.      5 BY MR. PILEGGI:      6 * Q. Okay. I'm asking you the question. I'm      7 going to ask it again -- if he wants to instruct      8 you not to answer -- who the confidential source      9 was.      10 MR. BRIGANDI: Don't answer it.      11 MR. PILEGGI: Okay. Again, I'm      12 going to invite you to go off the record.      13 MR. BRIGANDI: Not here.      14 MR. PILEGGI: What do you mean not      15 here?      16 MR. BRIGANDI: We're in open court.      17 There is a marshal in the courtroom. No.      18 MR. PILEGGI: I would ask the      19 marshal, would you step out of the      20 courtroom, please, for a second.      21 MR. BRIGANDI: No. If you can give      22 me something in writing -- if you think      23 you're in the right, you submit to me      24 something in writing and we'll answer it.</p>
<p style="text-align: right;">Page 230</p> <p>1 should know better than that.      2 MR. PILEGGI: Let's go off the      3 record.      4 MR. BRIGANDI: No.      5 MR. PILEGGI: Why not? This is      6 discovery. Armando, are you kidding me?      7 MR. BRIGANDI: There is a      8 confidentiality order.      9 MR. PILEGGI: So. That just means      10 it can't be released.      11 MR. BRIGANDI: You cannot divulge      12 the identity. File a motion.      13 MR. PILEGGI: I'm asking him the      14 question. If you're going to instruct him      15 not to answer, then that's fine. It's a      16 source, number one. It's not even an      17 informant.      18 MR. BRIGANDI: You should know      19 better than that. Talk to plaintiffs'      20 counsel.      21 BY MR. PILEGGI:      22 Q. The question is posed to you. If he      23 instructs you not to answer, don't answer.      24 MR. BRIGANDI: We'd be violating a</p>	<p style="text-align: right;">Page 232</p> <p>1 MR. PILEGGI: This is discovery. If      2 you want to do a protective order, you can      3 do a protective order.      4 MR. BRIGANDI: We have already done      5 that. Look at it.      6 MR. PILEGGI: I know what it is, but      7 it's not all inclusive, Armando. Come on.      8 That's why you had to give the      9 confidentiality --      10 MR. BRIGANDI: Am I wrong here? Are      11 we allowed to give out the identity of the      12 confidential sources and informants?      13 MR. PILEGGI: You already gave the      14 identities.      15 MR. BRIGANDI: No, I have not.      16 MR. PILEGGI: You'd better look at      17 your discovery. Maybe you need to do your      18 homework.      19 MR. BRIGANDI: Well, it's subject to      20 a confidentiality order.      21 MR. PILEGGI: Okay. So would this      22 be. So what's the difference? It just      23 means that I can't disclose it. I just      24 offered to go off the record.</p>

<p style="text-align: right;">Page 233</p> <p>1           MR. BRIGANDI: All right. Are you 2       all right with that?</p> <p>3           MS. CORTES: According to Judge 4       Diamond, it's the City who has to 5       designate that particular law enforcement 6       privilege as to confidentiality.</p> <p>7           Also, Mike, just to be clear, one of 8       the reasons, I think as Armando stated at 9       the beginning of the deposition, that we 10      continued with the deposition today was 11      because you promised that you wouldn't go 12      into any personal, private, financial or 13      go into the confidentiality sources. That 14      was one of the things that we understood 15      from your E-mails.</p> <p>16          So based on that representation, I 17      think there might be another ground for 18      him to object to this questioning here in 19      open court that we just saw earlier today 20      was open to the public to someone who had 21      some type of relation to this case.</p> <p>22          MR. PILEGGI: Okay. So what is 23      going to happen is I'm going to ask for 24      discovery and --</p>	<p style="text-align: right;">Page 235</p> <p>1           them.</p> <p>2           MR. PILEGGI: Why? What is the 3       confidentiality of a person he doesn't 4       even know that he knows from the 5       neighborhood?</p> <p>6           MR. BRIGANDI: They can still be 7       identified by other information.</p> <p>8           MR. PILEGGI: Okay. I'm going to 9       ask the question. If you want to instruct 10      him not to answer, go ahead.</p> <p>11          BY MR. PILEGGI:</p> <p>12          Q. Officer, you testified previously that -- 13      in fact, in the paperwork it says you received -- 14      I'm referring to -- actually, I want to mark this 15      anyway. This is the affidavit of probable cause.</p> <p>16          MR. PILEGGI: Monaghan-14.</p> <p>17          - - -</p> <p>18          (Whereupon, Exhibit Monaghan-14 was 19      marked for identification.)</p> <p>20          - - -</p> <p>21          BY MR. PILEGGI:</p> <p>22          Q. Officer Monaghan, I am showing you what 23      has been marked as Monaghan-14. This is the 24      continuation of search and seizure warrant, but</p>
<p style="text-align: right;">Page 234</p> <p>1           MR. BRIGANDI: Submit to me a 2       question in writing. You are right that I 3       did -- I do believe I produced a chart 4       with numbers under a confidentiality 5       order, not in open court.</p> <p>6           MR. PILEGGI: I'm not disputing 7       that.</p> <p>8           MR. BRIGANDI: You give me something 9       in writing, and we'll answer it for you.</p> <p>10          Why don't you ask him if he knows 11      who it is. Do you know who it is?</p> <p>12          THE WITNESS: I don't know his name. 13      Just somebody in the neighborhood out 14      there.</p> <p>15          MR. PILEGGI: Wait a minute. Then 16      I'm going to explore that.</p> <p>17          MR. BRIGANDI: I still think if you 18      ask him about physical characteristics and 19      stuff --</p> <p>20          MR. PILEGGI: Come on Armando, 21      please.</p> <p>22          MR. BRIGANDI: I'm going to object. 23      You can ask these questions in writing in 24      an interrogatory form, and I will answer</p>	<p style="text-align: right;">Page 236</p> <p>1           it's an affidavit of probable cause, correct?</p> <p>2          A. Yes.</p> <p>3          Q. In the first paragraph it says, "Police 4       Officer Monaghan, 6061, received detailed 5       information from a confidential source and 19th 6       District police officers Cain and Goglielmucci," 7       correct?</p> <p>8          A. Yes.</p> <p>9          Q. Now, my understanding from your testimony 10      is that you -- this confidential source, although 11      you know the person from the neighborhood, you 12      don't know a name or anything?</p> <p>13          A. Yes.</p> <p>14          Q. Wouldn't you have -- when you interviewed 15      this individual and got the detailed information, 16      wouldn't that be information that you would write 17      down?</p> <p>18          A. I didn't interview this person. We had a 19      general conversation who stated drug sales -- 20      there's drug sales being conducted at 56th and 21      Master. All the other information came from the 22      police officers from the 19th District.</p> <p>23          Q. But that is an interview, isn't it?</p> <p>24          A. No. No. Nothing was memorialized in</p>

<p style="text-align: right;">Page 237</p> <p>1 writing. It was just face-to-face saying -- it 2 could have been like a captain's complaint or a 3 roll call complaint. 4 Q. But it wasn't? I was somebody from the 5 neighborhood? 6 A. Yes. I was talking to somebody. They 7 said at 56th and Master there's drugs being sold. 8 Q. So it could have been an irate neighbor? 9 A. I even knew there was a lot of drugs being 10 sold there from working there for over 12 or 13 11 years. 12 Q. So these are units that you identified 13 when you were a patrol officer for ten years from 14 1988 to 1998 and you knew that these houses were 15 drug houses? 16 A. At the corner at 56th and Master. It was 17 always big for drugs sales. 18 Q. But you didn't know particularly 5605, 19 5607 and 5609, did you? 20 A. Not at that time. 21 Q. Did this confidential source reach out to 22 you or did you talk to them -- did you go to them? 23 A. No. I talked to them on the street. Just 24 ran into them.</p>	<p style="text-align: right;">Page 239</p> <p>1 A. No, they did not. 2 Q. Who told you that? 3 A. Cain or Goglielucci. One of them. 4 Q. When you interviewed Cain and 5 Goglielucci, did you write any of that down? 6 A. I don't believe -- maybe I wrote that down 7 on a piece of paper. 8 Q. So you don't know who gave you what 9 information with respect to whether the source told 10 you one thing and the officers told you another? 11 A. The police officers told me that about Al 12 and Pud. 13 Q. Who told you first? That's what I'm 14 trying to determine. 15 A. The source was the first person I talked 16 to. 17 Q. Okay. Were you just in the neighborhood 18 visiting or how did you bump into this source? 19 A. Working. Maybe stopped in -- the source 20 on the street. We work that area. 21 Q. Stopped in where? 22 MR. BRIGANDI: I'm going to object 23 to that. Now I'm going to object because 24 when you give a location and you give a</p>
<p style="text-align: right;">Page 238</p> <p>1 Q. So you were walking along the street? 2 A. No, I wasn't walking along the street. 3 Like I said, I spent time out there. I made 4 acquaintances out there. 5 Q. So let me get this straight. So you get 6 this information from these two officers and then 7 you go out on the street and whatever -- made 8 contact with this confidential source who confirms 9 what the officers already told you; is that 10 correct? 11 A. No. I found out from the source about the 12 drug sales, at which time I got in contact with 13 Cain and Goglielucci, who I knew was working a 14 tactical team there, and asked them questions about 15 the area. 16 Q. Did this source tell you that 5609 was an 17 abandoned property and 5607 was the stash house and 18 5605 was the place where they were selling the 19 drugs from? 20 A. Heavy drug sales 56th and Master. 21 Q. Is that what the source told you? 22 A. Yes. 23 Q. Did the source tell you that Al and Pud 24 were the individuals involved in this?</p>	<p style="text-align: right;">Page 240</p> <p>1 description, then you can figure out who 2 it is. 3 BY MR. PILEGGI: 4 Q. Did you talk to this source in a building 5 or was it on the street? 6 A. It was on the street. 7 Q. Okay. 8 A. I was going to say inside I talked to 9 Goglielucci and Cane. 10 Q. One other question with regard to this 11 source. Did you bring up the subject of these drug 12 sales or did the source just say, hey, by the way? 13 A. The source just said, yo, you know 56th 14 and Master there's a lot of drugs out of there 15 still. 16 Q. And then simultaneously these officers 17 happened to come forward and put the other puzzles 18 -- pieces to the puzzle? 19 A. You do know officers talk and -- we do 20 talk. 21 MR. PILEGGI: I have no further 22 questions. 23 MR. BRIGANDI: Let's take a short 24 break.</p>

<p style="text-align: center;">Page 241</p> <p>1                   (There was a brief recess taken at 2                   this time.)</p> <p>3 BY MR. WALKER:</p> <p>4     Q. You know I've been doing this job as long 5     as you've been doing this job. I'm not going to go 6     through a lot of questions and take you back 7     because you've already answered those questions 8     already. I do want to discuss the beginning of 9     your job --</p> <p>10    A. Yes.</p> <p>11    Q. -- where you go into where you got the 12    information from. I already know that. I know you 13    got some of it from a source of information. I'm 14    going to ask you specific questions, direct 15    questions. Just give me direct answers.</p> <p>16    The first question is the source of 17    information. Where you got it from we already 18    know. The question I'm asking you was the source 19    of information involved in this job in any type of 20    way other than giving you the information?</p> <p>21    A. No.</p> <p>22    Q. If the source of information was involved 23    in this job as far as him giving you information, 24    would that be right or wrong?</p>	<p style="text-align: center;">Page 243</p> <p>1                   A. Yes. 2     Q. You're, basically, corroborating what the 3     two officers said and the source of information 4     said, correct? 5     A. Yes. 6     Q. Based on your observations, Police Officer 7     Mitchell -- what did he do next? He went out to 8     make buys, correct? 9     A. True. 10    Q. And that established what? 11    A. Probable cause. 12    Q. What was that probable cause? 13    A. That DeLee was selling drugs. 14    Q. He was selling drugs, but what -- you have 15    physical evidence, correct? 16    A. Yeah. He bought four packets of crack, I 17    believe. 18    Q. Involved in the surveillance of who was 19    touching those objects which you believed to be 20    drugs? 21    A. Right. 22    Q. But at the end result you had drugs, 23    right? 24    A. After field-testing them, yes.</p>
<p style="text-align: center;">Page 242</p> <p>1     A. It would be wrong. I would have to put 2     them down on the paperwork. 3     Q. You have to put them down on the 4     paperwork? 5     A. Yes. 6     Q. If they got involved in this job in any 7     type of way, that would make them an informant, 8     correct? 9     A. True. 10    Q. Now we go into the information received. 11    You know what probable cause is and you know what 12    reasonable suspicion is, right? 13    A. Right. 14    Q. Would you agree with me when I say this to 15    you, reasonable suspicion is, basically, someone 16    telling you something, you're going out there and 17    looking at it but you don't have any factual 18    evidence; am I correct? 19    A. Correct. 20    Q. I'm looking at your warrant. You have 21    three houses. You had Officer Mitchell, which I 22    know very well. The source of information gave his 23    information. Along with the police officers, you 24    went out to the location and you did surveillance?</p>	<p style="text-align: center;">Page 244</p> <p>1     Q. Now, you put these drugs on the prop 2     receipt? 3     A. Correct. 4     Q. Within those two days you've established a 5     warrant for three locations; am I correct? 6     A. Correct. 7     Q. Did you see Kareem Torain -- I know you 8     answered this before. You said you didn't see him 9     within the two days at all. No observation. No 10    getting out of the car, passing someone bundles and 11    from those bundles, he would give them to another 12    individual and Mitchell would make a buy. 13    None of that happened, correct? 14    A. Right. 15    Q. So you had the warrants already done. 16    You're ready to go. You go out there on, what, the 17    third day? 18    A. Yes. 19    Q. And what do you see without going through 20    it? You, basically, see the same individuals out 21    there, correct? 22    A. Yes, most of them. 23    Q. I was out there with you too? 24    A. Yes.</p>

<p style="text-align: center;">Page 245</p> <p>1 Q. Along with Police Officer Reynolds, 2 correct? 3 A. Yes. 4 Q. Based on your observations, we all know 5 what you told me to do. I went around the corner. 6 He actually pulled up to the corner, which you 7 believed was the Bonneville. 8 You don't know who's in it, correct? 9 A. Right. 10 Q. Now, as a result of that, I relayed some 11 information back to you, correct? 12 A. Yes. 13 Q. We still didn't know who he was, right? 14 A. Exactly. 15 Q. He left the location. I gave you some 16 more information, correct? 17 A. Yes. 18 Q. What was that information I gave you? 19 A. About Delee getting out and putting a bag 20 in his jacket. 21 Q. Bag in his jacket. At that point, which I 22 believed to be narcotics, correct? 23 A. Correct. 24 Q. Was any buys made after my observations</p>	<p style="text-align: center;">Page 247</p> <p>1 correct? 2 A. True. 3 Q. And it's still my belief until we get some 4 factual evidence and that would be, what, drugs, 5 correct? 6 A. Yes. 7 Q. So is it fair to say after he got out of 8 that car, if he interacted with anybody and gave 9 them drugs, that person was never stopped? 10 A. Right. 11 Q. Mitchell never did a buy? 12 A. He did a buy on the second day. Nothing 13 on the third day. 14 Q. Nothing on the third day? 15 A. Right. 16 Q. So all my observations is, basically, 17 falling under reasonable suspicion, correct? 18 A. Yes. 19 Q. Now reasonable suspicion. We got that 20 right. The kid got out of the car. He did what he 21 did. 22 What did I do next? 23 A. Followed the Bonneville. 24 Q. Followed the Bonneville where?</p>
<p style="text-align: center;">Page 246</p> <p>1 and the information I gave you? 2 A. I believe there was, yes. 3 Q. What buy was made off that individual that 4 was stopped and we recovered drugs? 5 A. I believe Delee did go back to the corner 6 and sell. Let me just make sure. No, nobody was 7 stopped. 8 Q. So is it fair to say from observations -- 9 we can go with my belief because I've been doing 10 this job as long as you, but at the end of your 11 belief you need some type of probable cause; is 12 that correct? 13 A. Yes. 14 Q. So the point I'm saying to you is when 15 Delee got out of that green Bonneville and what I 16 saw that I believed to be drugs and relayed the 17 information back to you, you made no further 18 action -- 19 A. When Delee got out. 20 Q. I just said Delee. We didn't know it was 21 Torain in the car yet? 22 A. Yes. 23 Q. So when Delee got out of the car and I saw 24 what I believed to be drugs, that's my belief,</p>	<p style="text-align: center;">Page 248</p> <p>1 A. Up to Conestoga, around Conestoga. 2 Q. Where he entered Conestoga, correct? 3 A. Yes. 4 Q. What happened from that point? 5 A. Then he exited Conestoga and went to 55th 6 Street. 7 Q. 55th Street. Who was with me when he went 8 to 55th Street? 9 A. Brian joined in on the roving 10 surveillance. 11 Q. That's what we do all the time. You 12 assign an investigator and you count on people 13 giving you this information? 14 A. Exactly. 15 Q. Because you can't be in a thousand places 16 at one time? 17 A. Correct. 18 Q. So you rely on the trust that we have on 19 each other to give you the right information 20 because you're assigned to the investigation? 21 A. Correct. 22 Q. When we got there, what happened at that 23 point? I'm not going to revisit what was done 24 there. What happened at that point?</p>

<p style="text-align: right;">Page 249</p> <p>1 A. I relayed information to you that another 2 car might be coming to that area and look out for 3 the car and possibly three males. 4 Q. Three males? 5 A. And you observed them pull up around the 6 block or on the corner. 7 Q. What happened with that? 8 A. You observed them go in with Torain 9 opening up the door. 10 Q. Myself and Brian Reynolds out there, 11 correct? 12 A. Yes. 13 Q. So if I'm seeing the exact same thing, 14 he's seeing the exact same thing? 15 A. I'm not sure exactly where Brian was. I 16 can't -- 17 Q. You can't tell where another man was? 18 MR. PILEGGI: You can't talk 19 together. 20 THE WITNESS: I don't know where 21 exactly he was sitting with his vehicle 22 and what he could observe at that time. 23 BY MR. WALKER: 24 Q. I agree with you on that because you can</p>	<p style="text-align: right;">Page 251</p> <p>1 Q. Came back to the location? 2 A. Came back to the location. 3 Q. What happened next on 55th Street after 4 that? 5 A. Nobody -- no buyers were stopped. No 6 undercover buys. Next thing you relayed that 7 Torain or the individual driving the Bonneville was 8 leaving 55th Street in the car. 9 Q. What happened after that? 10 A. I instructed over radio to stop that 11 vehicle, at which time Brian stopped him at 61st 12 and Nassau. 13 Q. Was he supposed to arrest him or stop him? 14 A. Arrest him. He was stopping him to arrest 15 him. 16 Q. Now, I go back to the beginning of this. 17 What do you need for an arrest? Do you need 18 reasonable suspicion for an arrest or probable 19 cause? 20 A. Probable cause. 21 Q. Now, I'm not going to go through this 22 again. I'm going by what you just said. 23 What makes probable cause at the end 24 of your observations? It means evidence; am I</p>
<p style="text-align: right;">Page 250</p> <p>1 only be accountable for what I say? 2 A. Or what I know. 3 Q. Now, the three males entered the location 4 and came back out. 5 What happened next? 6 A. Right. You relayed back to me that Delee 7 was putting a clear baggie in his pocket, which you 8 believed to be narcotics. 9 Q. Let me stop right there. Would that fall 10 under reasonable suspicion? 11 A. Yes, because you didn't have nothing 12 recovered. 13 Q. I'm not going to ask you the question why 14 you didn't follow him. I'm not going to revisit 15 that no more. 16 At that point you agree with me all 17 you had was reasonable suspicion at that point? 18 A. True. 19 Q. Now, what else happened next? 20 A. They came back to the area at 56th and 21 Master. 22 Q. Who came back? 23 A. The three guys in the vehicle; Delee 24 Tillman and Diggs.</p>	<p style="text-align: right;">Page 252</p> <p>1 correct? 2 A. Not always seizing evidence, no. Evidence 3 that you believe you see. 4 Q. Evidence that you believe you see? 5 A. Yeah. How many times have you said, okay, 6 he's handing small objects to that person? 7 Q. I do agree. 8 A. You say, okay. Another sale. We as 9 narcotics officers go by our instinct. We know by 10 our investigative skills what we believe to be 11 narcotics even though nothing is being recovered at 12 the time. 13 Q. I understand that. That would fall under 14 reasonable suspicion, but at the end of all of 15 that, do you feel you need probable cause? If you 16 would have went to Master Street to do your 17 investigation and the only thing you saw was what 18 you believe to be sales with no buy from Police 19 Officer Mitchell, would you believe that you have 20 probable cause to go in those three houses? 21 MR. BRIGANDI: Objection to form. 22 Calls for a legal conclusion. All these 23 questions call for a legal conclusion, but 24 you can answer.</p>

<p style="text-align: right;">Page 253</p> <p>1           THE WITNESS: I would have tried to 2       at least pick off a couple buyers if I 3       could. 4       BY MR. WALKER: 5       Q. If you didn't pick off any buyers, would 6       you believe you had probable cause to go into the 7       house? 8       A. It all depends on how I articulate what I 9       saw. 10      Q. What form of articulation are we talking 11     about? 12      A. Trying to articulate what I saw and how 13     the narcotics transaction went down. 14      Q. Is it fair to say you're, basically, 15     describing a story of what you see? 16      A. What I see. It's not a story because a 17     story can be made up. It's what I see. 18      Q. Okay. 19      A. What I saw. 20      Q. So back to what I said before. If you go 21     into that location based on the information given 22     to you and you saw what you believed to be 23     transactions, you didn't do an undercover buy, you 24     didn't have a CI go up there, you didn't stop no</p>	<p style="text-align: right;">Page 255</p> <p>1           You went there and you looked and 2       you saw -- exclude stopping people, the CI buy, 3       your undercover buy. Exclude all of that. Just 4       your observations. What I said before -- and he's 5       going to say the exact same thing. 6       Do you believe you had strong enough 7       evidence to do warrants on those locations? 8       A. Not without the buy. 9       Q. So, basically, your answer to the question 10      again, you need some type of physical evidence to 11      show probable cause; am I correct? 12      A. Yeah, on different circumstances. 13      Q. What is the other circumstances? 14      A. Well, you ask me the next question. 15      Q. I'm asking you other than stopping 16     somebody, undercover buy, CI buy, what other 17     circumstances other than that? 18      A. Somebody telling me that they observed him 19     with narcotics, not just saying that he sold to 20     somebody or something. 21      Q. I understand that. How would you 22     corroborate that if someone told you something? 23     Wouldn't you have to get the physical evidence to 24     know?</p>
<p style="text-align: right;">Page 254</p> <p>1       buyers, none of that, do you believe that you had 2       enough probable cause to do an affidavit, get it 3       approved by a DA, signed by a bail commissioner or 4       a judge, to do a warrant on those locations? 5       MR. BRIGANDI: Again, same 6       objection. Calls for a legal conclusion, 7       but you can answer. 8       THE WITNESS: It all depends on the 9       circumstances. 10      BY MR. WALKER: 11      Q. What is the circumstances? 12      A. It depends on what you can articulate that 13     you observed. 14      Q. Again, articulate would be what? 15      A. What you observed. 16      Q. A story? 17      A. Okay. We'll go with a story. 18      Q. A story which you actually put on the 19     paperwork? 20      A. But something like that, that case we 21     would go with a buyer and try to pick off a couple 22     buyers. 23      Q. We already put that to the side. We 24     didn't do none of that.</p>	<p style="text-align: right;">Page 256</p> <p>1       For example, you're telling me right 2       now that if someone told me somebody was selling 3       some drugs without even stopping them with drugs, 4       I'm going to go lock them up? 5       A. No, you can't do that. You need 6       observation on what he was doing. 7       Q. You need observation and you need some 8       type of evidence, right? 9       A. True. 10      Q. To corroborate what you're doing, right? 11      A. Yeah. 12      Q. So we know by looking -- I know by looking 13     at your paperwork as far as the first two days you 14     went out there, someone gave you some information, 15     you went out there with buys. Police Officer 16     Mitchell was doing the buys off of individuals. 17     You gathered evidence. That would be drugs. You 18     tested those drugs. You placed them on prop 19     receipts. 20      Based on that, your story was in 21     line. You went to the supervisor, they read it, 22     signed her signature on it. Went to the DA's 23     office. They sent it over there. They looked at 24     it and put their signature on it. Then it went to</p>

<p style="text-align: right;">Page 257</p> <p>1        a magistrate, which you did the following day 2        before you did the warrants; am I correct? 3            A. Went to a bail commissioner. 4            Q. Sorry. Within those two days Kareem 5        Torain was not even mentioned or seen or operated 6        any vehicle on those first two days; am I correct? 7            A. Correct. 8            Q. Now we go into the third day, which you, 9        basically, went out there to do -- see any drug 10      activity, make arrests, if need be. Basically, 11      locate all your targets; am I correct? 12            A. Correct. 13            Q. The green Bonneville pulls up to the 14      corner? 15            A. Yes. 16            Q. Delee gets in the green Bonneville; am I 17      correct? 18            A. Correct. 19            Q. Gets out? 20            A. Correct. 21            Q. I said it was drugs. There's no evidence 22      there; am I correct? 23            A. Nothing was recovered. 24            Q. Because there was no evidence?</p>	<p style="text-align: right;">Page 259</p> <p>1        Q. He comes out of that location. He's 2        stopped by Police Officer Reynolds, correct? 3            A. No. He comes out after three of the males 4        went inside from my corner that I was watching. 5            Q. He comes out of the house? 6            A. At one time he comes out. 7            Q. Does he have any drugs on him? 8            A. No. 9            Q. No drugs on him? 10           A. Right. 11           Q. So you feel as though that was a lawful 12      arrest to stop him even though he had no drugs on 13      him? 14           A. I believe it was. 15           Q. So the individuals that came out of the 16      house, which, again, something appeared to be drugs 17      and relayed the information back to you, they were 18      never stopped? 19           A. Later on they were. 20           Q. Did the individuals that allegedly had the 21      bundle, was he stopped with the drugs? That was 22      soon after he came out? 23           A. No. They went into 5605 Master Street and 24      then they came running out after we were starting</p>
<p style="text-align: right;">Page 258</p> <p>1            A. Nothing was recovered. 2            Q. Right? 3            A. Yes. 4            Q. So you can't tie Kareem Torain in for 5        selling any drugs because you didn't stop the 6        individual coming out of the car to get any drugs 7        off of them, correct? 8            A. Correct. 9            Q. So it's fair to say that you had no proof 10      Kareem Torain was selling drugs at that point; am I 11      correct? 12           A. True. 13           Q. Then he goes to Conestoga; am I correct? 14           A. Correct. 15           Q. He comes out of that location but he was 16      never stopped. So, again, there's no proof that he 17      was selling any drugs; am I correct? 18           A. Correct. 19           Q. He goes to 55th Street. 20           A. 1628. 21           Q. 1628 55th Street? 22           A. Yes. 23           Q. He goes in that location? 24           A. True.</p>	<p style="text-align: right;">Page 260</p> <p>1        to execute the warrants. 2           Q. So is it fair to say from my observation 3        and Police Officer Reynolds' observations, you 4        didn't stop no one coming out of there with any 5        drugs on 55th Street? 6           A. No. We found drugs inside -- 7           Q. We didn't get to that part yet. No one 8        came out of there with drugs? 9           A. Not that I recall. 10           Q. Let me remind you. You just said it. 11           Kareem Torain -- 12           A. Oh, out of 55th Street, yes. 13           Q. Kareem Torain didn't come out with any 14      drugs? 15           A. Yeah. 16           Q. The three individuals, which I believed to 17      have drugs, they were never stopped. So you can't 18      say they had drugs because, again, at the end of 19      the day, you've got to have the evidence; am I 20      correct? 21           A. Yes. 22           Q. So Kareem Torain was arrested by Police 23      Officer Brian Reynolds? 24           A. Yes, he was.</p>

<p style="text-align: center;">Page 261</p> <p>1 Q. No drugs were confiscated from him?      2 A. Correct.      3 Q. So at that point from -- I'll revisit this      4 all over again. You said he had no proof -- from      5 the first time you saw the green Bonneville, you      6 couldn't say Kareem Torain was selling drugs?      7 That's what you just said.      8 A. Right.      9 Q. Coming out of the house, stop Kareem      10 Torain and he had no drugs. Still no proof he had      11 any drugs; am I correct?      12 A. Correct.      13 Q. The individuals coming out of the      14 location, they were never stopped. No proof that      15 they had drugs?      16 A. Correct.      17 Q. So I will ask you this question. How do      18 you feel as though -- how do you come to an opinion      19 that Kareem Torain was selling drugs?      20 A. I base it on I believed he was part of the      21 conspiracy. He was part of the job.      22 Q. How was that?      23 A. Meeting up with three of my sellers.      24 Also, one of the guys on the corner said that</p>	<p style="text-align: center;">Page 263</p> <p>1 A. No.      2 Q. I was in the hallway.      3 A. Okay. I don't recall.      4 Q. Do you remember if Brian Reynolds was at      5 that location?      6 A. Yeah. He might have been. I thought we      7 all pulled up together with Shawn Kelly and me.      8 Q. Who pulled up together?      9 A. Me and Shawn Kelly.      10 Q. Who else?      11 A. I thought it was almost at the same time.      12 Q. Me?      13 A. No. I don't remember you being in the      14 hallway. I thought you were by the doorway. I'm      15 not sure. You might have came out and met us.      16 Q. Do you agree I was there when you got      17 there?      18 A. I believe you were, yes.      19 Q. You don't know who told me to go there?      20 A. No.      21 Q. We'll go to another topic. Exigent      22 circumstances. Before I talk about that, all the      23 individuals that you mentioned in this      24 investigation, were they all in custody?</p>
<p style="text-align: center;">Page 262</p> <p>1 Kareem was going to call when it was ready, and as      2 soon as that phone rang, he answered it. Seconds      3 later he jumped in the car and went right up to      4 55th Street.      5 Did they come out with something?      6 I'm basing it on what you saw.      7 Q. I understand that. Again, we'll keep      8 going over and over.      9 A. I believe I had enough probable cause to      10 have him arrested.      11 Q. How? You have no drugs.      12 MR. BRIGANDI: He's answered that      13 question. I mean, I know you don't like      14 the answer, but he answered it.      15 MR. WALKER: Well, he's telling me      16 he arrested someone on reasonable      17 suspicion and there's probable cause.      18 MR. BRIGANDI: That's your opinion.      19 Do you have another question?      20 BY MR. WALKER:      21 Q. The second question is who ordered me to      22 go into the hallway of 55th Street?      23 A. I don't recall that.      24 Q. You don't recall?</p>	<p style="text-align: center;">Page 264</p> <p>1 A. No. No. Migel Moon wasn't arrested until      2 the following day. He was actually -- he got away.      3 Maybe somebody else. I forgot. Not everybody that      4 I saw out there participating in the open drug      5 sales were arrested at that time.      6 Q. Everyone you saw participating on that day      7 was arrested?      8 A. Everyone that was arrested that day except      9 for Migel Moon. I'm not sure -- there could have      10 been guys that I never ID'd that maybe handed a      11 packet here and there to somebody. I don't know.      12 Q. But you didn't see anyone else go into the      13 house but the three --      14 A. There was people in and out.      15 Q. Are you talking about 55th Street?      16 A. Not 55th Street. At 55th Street you had      17 Delee, Tillman and Diggs and Torain.      18 Q. That's four. You've got the three males      19 and you've got Kareem Torain.      20 That's the only individuals you saw      21 going into that location?      22 A. Yes.      23 Q. So you had no other proof or any factual      24 evidence that someone else other than those four</p>

<p style="text-align: right;">Page 265</p> <p>1 people went to that location?      2 A. I don't know. I don't know because we had      3 a lapse in time. I don't know who could have went      4 to that property.      5 Q. Okay. So it's fair to say that you feel      6 as though someone else was going to come to that      7 location?      8 A. Is it fair to say that you weren't there      9 the whole time?      10 Q. I'm going to get to that part.      11 A. Yeah. It's fair to say that I don't know      12 who could have came to that location. I don't know      13 if anybody did. I don't know.      14 Q. Okay. I will say this. How would you      15 know -- do you have any evidence to say that      16 someone was destroying evidence inside that      17 location, because your testimony is four      18 individuals left that location? The three males      19 left first. Then Kareem Torain left.      20 A. Yes.      21 Q. Let's say the light was on and came off.      22 I'm telling you that was a lie. It shows no one is      23 in that location. So we know no one is there.      24 So at this point what gives you</p>	<p style="text-align: right;">Page 267</p> <p>1 Q. Did someone run into 55th Street?      2 A. I don't know.      3 Q. You don't know?      4 A. I don't know.      5 Q. Do you believe from some type of --      6 someone out front that someone ran in the house and      7 you believe evidence was being destroyed?      8 A. No, but we had a lapse in time.      9 Q. You believe that to be exigent      10 circumstances?      11 A. I believe so, yes, to secure the property      12 and make sure that evidence wasn't -- or nobody was      13 in there to destroy anything.      14 Q. Whose job was it to secure the house, the      15 property on 55th Street?      16 A. Who was left there?      17 Q. Who did you tell to secure the location?      18 A. I forget. I don't think I would have told      19 them. It would have been a supervisory decision,      20 and you know that.      21 Q. I understand that. Again, you have me in      22 the hallway.      23 Did I remain there?      24 A. I don't know if you remained there the</p>
<p style="text-align: right;">Page 266</p> <p>1 enough probable cause if you feel the evidence was      2 going to be destroyed to go back and secure that      3 house instead of putting somebody in front of that      4 house?      5 A. Because, like I said, there was a lapse in      6 time. I don't know if anybody went there or if      7 anybody was hiding out in there that we didn't know      8 of.      9 Q. You had no evidence for that. You had no      10 evidence. You're just going off of belief again      11 that someone would go back to the location?      12 A. Well, that's why we secure the property to      13 make sure there's nobody in there.      14 Q. We secured properties countless times, and      15 the reason why we secure properties -- there's only      16 one way you can secure a property, which is exigent      17 circumstances. That's, what, someone running in      18 the house; am I correct?      19 A. Going in for your safety. Fearing that      20 drugs are going to be destroyed. That's another      21 way.      22 Q. That's the other way. Did that happen in      23 this case?      24 A. Not that I'm aware of.</p>	<p style="text-align: right;">Page 268</p> <p>1 rest of the night. I'm not sure who was there. It      2 was so busy, and you realize this, when we got back      3 and my main focus was to prepare the affidavit, get      4 the search warrant approved.      5 Q. I understand.      6 A. So my thing was, and you know this, I      7 never liked that anybody had to sit in them rooms      8 or a house that's not their house for a long period      9 of time. I hated that.      10 Q. I understand. So the question I'm asking      11 you is, would it be fair to say you don't know who      12 secured the house?      13 A. Yes.      14 Q. If someone secured the location, they      15 would be on the warrant; am I correct, as a badge      16 number?      17 A. They would have been there when I executed      18 the warrant, yes.      19 Q. They would have been already sitting there      20 when you came in?      21 A. I said that's my mistake. I didn't put no      22 badge numbers on the warrant.      23 Q. Okay. Who was the supervisor that went      24 there with you or did you go by yourself?</p>

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<p>1 A. No. I'm not sure who was there, but there 2 definitely would have been a supervisor. 3 Q. A supervisor. Is it fair to say while 4 you're collecting the evidence at a location you 5 have a supervisor there? 6 A. Yeah, it's fair to say. 7 Q. Would it be fair to say after you collect 8 the evidence you put it on a search warrant and the 9 supervisor will sign it? 10 A. No. The supervisor doesn't sign it. You 11 put it on there and you leave a copy of the 12 warrant. 13 Q. Well, did the supervisor sign the warrant? 14 A. I think at the end after it's all done 15 they sign off on it. 16 Q. Do you see this on the bottom of there? 17 Do you see a supervisor's signature on that? Right 18 at the bottom. You know where it's at. Do you see 19 a supervisor's signature on there? 20 A. No. 21 Q. Would a supervisor -- 22 A. I don't know if that is the original copy. 23 The warrant is bigger than that. 24 MR. WALKER: Do you have a copy?</p>	<p>1 Q. Who was arrested at the location, the 2 search warrant number, items recovered. Along with 3 that you have the prop receipts. On every location 4 you will have that. 5 Okay? 6 A. Yeah. 7 Q. And in this case you will have four unless 8 you -- let me put it this way. You're putting 9 Kareem Torain to 55th Street, correct? 10 A. Yes. 11 Q. So would you have a summary sheet with 12 Kareem Torain on it connected to 55th Street? 13 A. I don't recall. It might have just had 14 the -- usually on the summary you put -- being that 15 he wasn't arrested inside the property, you would 16 just put execute a search warrant at that property. 17 I'm not sure if he would have been put on a summary 18 or not. 19 Q. Do you have any documents -- he was 20 stopped by myself and members of the unit. The 21 paperwork that you would have to write down the 22 location we stopped, the prop receipt numbers, like 23 items that were taken from them with the prop 24 receipt numbers.</p>
<p>1 MR. BRIGANDI: There's 500,000 2 documents. I don't know. 3 MR. WALKER: Come on. Stop it. 4 BY MR. WALKER: 5 Q. The prop receipts. 6 A. Now, do you want to get into the prop 7 receipts? 8 Q. Yes, I do. 9 MR. BRIGANDI: Brian, let him ask 10 the questions. 11 THE WITNESS: Okay. 12 BY MR. WALKER: 13 Q. You know as the assigned investigator you 14 control a lot of stuff that goes on. You know 15 about call-in sheets. It's broken down per house. 16 You will have -- really, you would have four 17 call-in sheets. A call-in sheet -- you have Master 18 Street houses. That would be three. 19 A. What do you mean call-in sheets? 20 Q. I mean the summary sheets. The sheets you 21 come in and you write the stuff down where you do 22 the warrants and everything. 23 Am I saying that right? 24 A. Yeah.</p>	<p>1 Would you have that? 2 A. There was prop receipts prepared, yeah. 3 Q. But you didn't give me a prop receipt. 4 You, basically, had wrote something down, right, so 5 I know what items were taken from Kareem Torain? 6 A. I might have gave you a piece of paper 7 with Kareem's name on it, his date of birth and 8 what time this stuff was recovered from him. You 9 wouldn't have had the summary by then because that 10 summary was probably one of the last pieces of 11 paperwork. 12 Q. We know the computer summary. I'm talking 13 about the paperwork summary which actually shows 14 the person you arrested and what was taken from him 15 at the time you're taking it from him and their 16 location. 17 Would you agree with me on that? 18 A. It could have been a 48. I don't know. 19 It could have been just jotted down. 20 Q. A 48? 21 A. Yeah. 22 Q. Okay. A person in the squad you would 23 give a prop receipt number? 24 A. Yes.</p>

<p style="text-align: right;">Page 273</p> <p>1 Q. They would fill out a prop receipt number, 2 correct? 3 A. Yes. 4 Q. You review the prop receipt? 5 A. After it's done, yes. 6 Q. You review and make sure everything is 7 right and then you sign? 8 A. Yeah. 9 Q. Am I correct? 10 A. Sometimes -- yeah. 11 Q. Is that yes or no? 12 A. Yes. 13 Q. When you give the prop receipt, you give 14 it to who? It's a supervisor, right? 15 A. Yes. 16 Q. They review it? 17 A. Yes. 18 Q. They review it to make sure everything is 19 right on that prop receipt? 20 A. They review it. I don't know how much 21 they make -- they look it over. 22 Q. It's very important that you get the 23 evidence right at the location and time; am I 24 correct?</p>	<p style="text-align: right;">Page 275</p> <p>1 but there's corrections you have to go about; am I 2 correct? 3 If you find out through your 4 discovery and you say, you know what, I got a wrong 5 date on here, I better do something about this, 6 what would you do? 7 A. Let the ADA know. 8 Q. Before letting the ADA know, what would 9 you do? 10 A. You would probably testify at the 11 preliminary hearing and the ADA would bring up 12 about your paperwork. You would say, yes, it's a 13 typed error or it's the wrong date and time that 14 was put down there. 15 Q. The question is this, when did you know 16 there was a mistake on these prop receipts? 17 A. I don't recall that. I don't know. 18 Q. Would it be in your testimony where you 19 talked to the ADA? 20 A. It might have been at the suppression 21 hearing. I'm not sure. I believe we did catch 22 something to do with a wrong date, but I am not 23 sure where and when it was. 24 Q. Would that be in testimony if you</p>
<p style="text-align: right;">Page 274</p> <p>1 A. Yes. 2 Q. Because it can affect the case down the 3 line; am I correct? 4 A. True. 5 Q. That's everything? 6 A. Yes. 7 Q. Everything that is taken from an 8 individual at the time of his arrest; am I correct? 9 You definitely want to make sure all that's right? 10 A. Well, how many prop receipts have you done 11 in your career where they were wrong? 12 Q. You ain't asking me the questions. I'm 13 asking you the questions. 14 A. Well, I just asked you. 15 Q. I ain't answering your questions. 16 MR. BRIGANDI: Brian, just answer 17 his questions. 18 THE WITNESS: You know, Jeff, you're 19 doing paperwork. Sometimes paperwork gets 20 messed up. You put the wrong date. You 21 put the wrong time. 22 BY MR. WALKER: 23 Q. I understand. What happens if you find out -- and this happens to me to a certain point --</p>	<p style="text-align: right;">Page 276</p> <p>1 testified in court and you told the DA? 2 A. I think it was. 3 Q. That would be in testimony? 4 A. Yes. 5 Q. Prior to you testifying, if you would have 6 knew the prop receipt was wrong, say, by the end of 7 the night, what would you do? Say, if I did this 8 prop receipt and we were still working and you knew 9 it was wrong, what would you do? 10 A. Have you go back in there and fix it. 11 Q. How would I fix it? 12 A. White it out and put the right date and 13 time or the right name down and X it out. 14 Q. What if it was entered in the computer? 15 A. I don't know what date was entered in the 16 computer for the search warrant. Most likely, they 17 went off the search warrant -- I mean the prop 18 receipt. They looked at the prop receipt and saw 19 the date and time. 20 No. You would just leave that go 21 because all that does is generate where that 22 property receipt is, if it's still in custody, the 23 receipt date and the disposal date. You put down a 24 date when it's being entered. So you might put</p>

<p style="text-align: right;">Page 277</p> <p>1 down the property receipt. If you do a property 2 receipt like on the 3rd and I'm not taking the 3 drugs right down to the chem lab, I might take it 4 down on the 5th. I'm entering that PRFQ on the 5th 5 because I'm taking it down on that day.</p> <p>6 Q. So you're telling me if you confiscate any 7 type of evidence, you put it on the prop receipt, 8 the supervisor signs it, you don't enter that prop 9 receipt until the following day?</p> <p>10 A. You should enter it that day. As soon as 11 you're done with a property receipt and it gets 12 signed and you're getting ready to take the drugs, 13 you should enter it, yes. It should be done that 14 way.</p> <p>15 Q. It should be done that way?</p> <p>16 A. Sure.</p> <p>17 Q. So what you're saying is I do this prop 18 receipt and say there's drugs. I don't put it in 19 the computer until the day I'm taking it down?</p> <p>20 A. No. I said you should do it that day. 21 You know sometimes it doesn't get put in until the 22 following day, but in this case I think we tried to 23 get all the drugs down at the same time the 24 following day.</p>	<p style="text-align: right;">Page 279</p> <p>1 -- you type the property receipt up that night. 2 You know you're not taking it down tomorrow. I'm 3 coming back the next day to finish the property 4 receipt. You do the PRFQ in the computer and you 5 ship it down.</p> <p>6 Now, you can predate that. You can 7 put -- say up on the 4th that just means that that 8 is the receipt date and people go by what's on the 9 property receipt. When you're typing the PRFQ 10 you're looking at this real fast up here, the 11 number up there and the date. That's what you're 12 typing in.</p> <p>13 Q. So is it fair to say when you're doing a 14 prop receipt and you put it in the computer, the 15 computer has to match up with the prop receipt?</p> <p>16 A. Yes.</p> <p>17 Q. It comes out on the printout on the 18 computer as the date and time entered?</p> <p>19 A. It should.</p> <p>20 Q. So you're doing something like drugs. You 21 mean to tell me that you are not going to finish 22 the prop receipt with drugs and come back the next 23 day and enter it into the computer?</p> <p>24 A. That's why some districts have safes and</p>
<p style="text-align: right;">Page 278</p> <p>1 Q. I hear what you're saying, but I'm a 2 little bit confused because you know and I know 3 that when you do this prop receipt on the date and 4 time the supervisor signs it, you sign it, like I 5 said before. You enter it into the computer 6 because everything has to generate for what happens 7 that day; am I correct? You get a printout of the 8 PRFQ?</p> <p>9 A. Yes.</p> <p>10 Q. It's entered that day you do the prop 11 receipt?</p> <p>12 A. Yes.</p> <p>13 Q. What happens next is at the end of the 14 night the supervisor does his package and it goes 15 to specific parts in the department like the 16 captain's office or ICO and stuff down there; am I 17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Why would you say if I do a prop receipt 20 and I enter it the day I'm taking the drugs down is 21 it in the computer the day I'm taking the drugs 22 down?</p> <p>23 A. I said it's happened before. Like I said, 24 you know it's happened that you don't get a chance</p>	<p style="text-align: right;">Page 280</p> <p>1 we put it in the safe.</p> <p>2 Q. Again, Monaghan, when you put them drugs 3 in the safe, those prop receipts are prepared, 4 meaning they're typed up and the supervisor signs 5 and they're entered into the computer? So, again, 6 it goes back to when the prop receipt is completed, 7 it's entered in the computer on that date and time?</p> <p>8 A. It should be, yes.</p> <p>9 Q. That's how everything goes together 10 because you can't hold on to a prop receipt because 11 paperwork needs to go down to the appropriate 12 places at the right time?</p> <p>13 A. Right. Yeah.</p> <p>14 Q. Am I right?</p> <p>15 A. Yes.</p> <p>16 Q. So if a prop receipt was entered on the 17 date that it was confiscated, that means if someone 18 is looking at it and they go to the computer and 19 say such and such drugs was purchased on this date 20 or something was confiscated on this date and they 21 go to the computer and they say this is the date 22 and time and place in the computer, their 23 assumption is this is the date and time it was 24 confiscated?</p>

<p style="text-align: right;">Page 281</p> <p>1 A. That they believe it is, yeah. 2 Q. Am I correct? 3 A. Yes. 4 Q. If you made a mistake in that situation, 5 would you try to correct it knowing -- before going 6 to court and testifying but that night if you would 7 catch it? 8 A. If you catch it, yeah, but there's -- I 9 don't know how you would catch it on a PRFQ because 10 you can't go back in and change that. 11 Q. Yes, you can, Monaghan. You know that. 12 MR. BRIGANDI: No. You can't 13 testify. You can ask questions. You 14 can't testify. 15 MR. WALKER: Sorry. No problem. 16 BY MR. WALKER: 17 Q. You can't go back and correct it? 18 A. On an PRFQ? 19 Q. Yes. Wouldn't you want to notify evidence 20 and they would take it out for you? 21 A. You would have them -- you can't do it. They have to do it. They -- 23 Q. You would notify -- 24 MR. PILEGGI: One at a time. She's</p>	<p style="text-align: right;">Page 283</p> <p>1 MR. BRIGANDI: Objection to the form 2 of the question. He did not testify, nor 3 has anyone testified, that the drugs were 4 confiscated on the 4th. He's testified 5 that there was a mistake on the property 6 receipt. 7 BY MR. WALKER: 8 Q. But the mistake wasn't rectified, and he 9 doesn't remember if the mistake was corrected. So 10 I'm going back to the beginning. 11 If I'm looking at the paperwork from 12 what your testimony says and what I'm seeing, the 13 drugs was confiscated on the wrong day? 14 A. Based on the paperwork? 15 Q. Yes. 16 A. Because the date and time is wrong, yes. 17 Q. The date and time is wrong? 18 A. Yes. 19 Q. You don't know if you corrected it or not? 20 A. I'm not sure. 21 MR. WALKER: I'm done. 22 MR. BRIGANDI: I just had a few follow-ups. 24 MR. PILEGGI: I have some too.</p>
<p style="text-align: right;">Page 282</p> <p>1 having a hard time. 2 THE WITNESS: We can't do it. We 3 would notify evidence. 4 BY MR. WALKER: 5 Q. Was that done in this situation? Was that done in this situation? 7 A. I don't know. I don't think so. 8 Q. And you don't remember if you testified -- 9 when you testified to let the DA know the evidence 10 that was collected was on the wrong day? You 11 didn't let no one know? 12 A. I'm not sure. I don't remember. 13 MR. WALKER: Give me one second. 14 BY MR. WALKER: 15 Q. The paperwork. Based on the paperwork, again, with all the mistakes in this paperwork, you feel as though Kareem Torain was justifiably arrested? 19 A. Yes, I do. 20 Q. Even though the drugs had been confiscated on the wrong day? 22 A. No, they were not. 23 Q. Well, looking at the paperwork, that's what -- I'm looking at the paperwork.</p>	<p style="text-align: right;">Page 284</p> <p>1 MR. BRIGANDI: Go ahead. 2 BY MR. PILEGGI: 3 Q. Officer Monaghan, this is Michael Pileggi 4 again on behalf of Mr. Torain. Two questions. You 5 had mentioned on both the examination and also in 6 the paperwork that someone heard -- and I believe 7 you said Officer Kelly -- heard someone mention 8 that Kareem is going -- basically, go re-up. He 9 only has a bundle or something to that extent. 10 This was out on Master Street, 11 correct? 12 A. Yes. 13 Q. Did you know who he meant by Kareem at 14 that point? 15 A. No. I -- no. 16 Q. So why was that in the formula of the probable cause? I mean, you didn't even know who 17 he was talking about. It could have been Kareem 18 anybody, right? 20 A. It could have been. I didn't know who Kareem was at the time. 22 Q. Nor did you even know who the driver was at that point? 23 A. No, I did not.</p>

<p style="text-align: right;">Page 285</p> <p>1 Q. Second, something we really didn't get 2 into. Do you recall having a conversation or 3 anyone that was at the unit -- this was the first 4 time when you went out at 3:50 at 55th Street. 5 Do you recall -- I know you recall 6 Officer Kelly having a discussion with the manager, 7 right, Mr. Saunders?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall either yourself or any of 10 the fellow officers talking to the actual owner who 11 was Mr. Saunders' son who was also a Mr. Saunders?</p> <p>12 A. I don't recall who it was, but I believe 13 it was Saunders, Sanders. I don't know if it was 14 the father or son.</p> <p>15 Q. I know you testified that Officer Kelly -- 16 while you were simultaneously with the key at the 17 unit, that Officer Kelly had a discussion with 18 someone you believe that was on the porch?</p> <p>19 A. Yeah. I think you asked me earlier about 20 a phone call, that somebody called on the phone.</p> <p>21 Q. That's what I'm referring to.</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you recall speaking to anyone other 24 than Mr. Saunders who spoke with Officer Kelly?</p>	<p style="text-align: right;">Page 287</p> <p>1 point? You knew who he was? 2 A. Because he wasn't the listed owner of the 3 property. 4 Q. So? But he was the target, right? 5 A. Yes, but he wasn't the listed owner. 6 Q. But, according to you, he was the occupant 7 of bedroom two, correct? 8 A. Yes. 9 Q. And that's where the warrant was directed 10 to? In fact, it says the first floor, apartment 11 two, right? 12 A. Yes. 13 Q. Why didn't you put Kareem Torain's name on 14 it? 15 A. I didn't know he was the owner. 16 Q. You didn't know he was the owner of 17 bedroom number two, right? 18 A. He wasn't the listed owner on the 19 property. 20 Q. That's not my question. You didn't know 21 he was the occupant of apartment two? 22 A. The owner of apartment two. 23 Q. But did you know if he was the occupant of 24 apartment two? That's my question.</p>
<p style="text-align: right;">Page 286</p> <p>1 A. No. I don't recall. 2 Q. On the warrant -- and I think this is 3 Monaghan-2, I believe; am I correct? 4 A. Yes. 5 Q. On the warrant it says the name of the 6 owner, occupant or -- I can't read the rest, but in 7 that box there you're supposed to put whoever the 8 target of the search is, correct? 9 A. No. The owner of the property. 10 Q. How did you determine that the owner of 11 the property was an R. Waits and Vincent Saunders? 12 A. We did a property check and that comes 13 back on the property check. 14 Q. When did you do the property check? 15 A. Probably when I went back to headquarters. 16 Q. I don't want you to guess. Do you recall 17 when you did it? 18 A. Definitely when I went back to 19 headquarters. 20 Q. But it was somewhere between the time of 21 4:00 o'clock when you left the premises and -- but 22 before you actually got the warrant, correct? 23 A. Yes. 24 Q. Why didn't you put Kareem Torain at that</p>	<p style="text-align: right;">Page 288</p> <p>1 A. Other than him having the keys, that's how 2 I found out he was the occupant, him having the 3 keys to that property, to that apartment. 4 Q. Okay. And also Officer Walker's testimony 5 that the light went on? 6 A. Yes. 7 Q. Did you have any information whatsoever 8 that these three individuals actually went into the 9 second floor bedroom -- I'm sorry -- first floor, 10 number two bedroom? 11 A. No. I was never told. 12 Q. So for all you knew those three 13 individuals went upstairs and got drugs? 14 A. They could have. I don't know -- I 15 couldn't see inside there. 16 Q. So, again, what linked Torain to those 17 three individuals? 18 A. Meeting them at the door. Opening up the 19 door and meeting them and bringing them inside the 20 property. 21 Q. That was information provided by Officer 22 Reynolds, not Officer Walker, correct? 23 A. I believe so. 24 MR. PILEGGI: All right. I have</p>

<p style="text-align: right;">Page 289</p> <p>1 nothing further.      2 MR. BRIGANDI: I just have a few      3 follow-up questions.      4 BY MR. BRIGANDI:      5 Q. Officer, do you have the 49 in front of      6 you, which starts with 7423?      7 A. Yes, I do.      8 Q. I want you to take a look and turn to the      9 Bates stamp 7424.      10 A. Got it.      11 Q. I want to go down to the last paragraph      12 there where it says 1/4/2000, but it should be      13 2001, correct?      14 A. Yes.      15 Q. I know that we have gone over this. I      16 just want to get some clarification for my own      17 understanding.      18 On that date you and Officer Kelly      19 set up a surveillance at 56th and Master and that      20 police observed a green Bonneville registered to      21 Carolyn Gillis.      22 Now, did you yourself observe the      23 green Bonneville?      24 A. Yes.</p>	<p style="text-align: right;">Page 291</p> <p>1 A. Yes, it is.      2 Q. Did you observe that?      3 A. I observed him get in and then it kind of      4 went out of my sight.      5 Q. But you observed Delee get in the      6 Bonneville?      7 A. Yes.      8 Q. It says here next that Delee exited after      9 approximately two to three minutes and ran back to      10 the corner of 56th and Master.      11 Now, where it says here that he      12 exited after two or three minutes, did you observe      13 that?      14 A. No. I observed him come back, come back      15 onto Master Street.      16 Q. But you did observe him get in the      17 Bonneville?      18 A. Yes.      19 Q. And after two to three minutes you saw him      20 come back to 56th and Master?      21 A. Yes, I did.      22 Q. You saw that with your own eyes?      23 A. Yes.      24 Q. Next it says that the Bonneville was being</p>
<p style="text-align: right;">Page 290</p> <p>1 Q. That's from the van?      2 A. Yes, it was.      3 Q. And you observed it traveling northbound      4 at 56th Street to the intersection of 56th and      5 Master; is that correct?      6 A. That's correct.      7 Q. Next it says that at this time Delee, who      8 was standing on the steps of 5605 Master Street,      9 made a hand gesture toward the Bonneville and      10 yelled "yo."      11 Now, is that something you observed,      12 Delee waiving to the Bonneville and saying "yo"?      13 A. Yes, we heard it. Yeah.      14 Q. Okay. Next it says that at this time the      15 Bonneville traveled westbound on Master Street and      16 turned onto -- turned northbound onto Ithan Street.      17 At this time Delee -- Delee being the same guy that      18 yelled "yo" at the Bonneville, correct?      19 A. Yes.      20 Q. He ran westbound to Ithan Street and      21 entered the passenger side of the Bonneville.      22 Now, is that the same green      23 Bonneville that you saw where he was yelling "yo"      24 at?</p>	<p style="text-align: right;">Page 292</p> <p>1 operated by a black male.      2 Now, at this time you didn't know it      3 was Kareem Torain, but you knew it was being      4 operated by somebody?      5 A. True.      6 Q. You saw the Bonneville was moving?      7 A. Yes.      8 Q. And it had a driver inside of it?      9 A. Yes.      10 Q. Did you know at that time whether the      11 individual was a black male or a white male or      12 Hispanic? Could you tell if it was a black male?      13 A. No, I couldn't because of how he pulled      14 away.      15 Q. Okay.      16 MR. PILEGGI: Or a female.      17 MR. BRIGANDI: Or a female.      18 BY MR. BRIGANDI:      19 Q. The Bonneville -- next it says that the      20 Bonneville, which was being operated by a black      21 male later identified as Kareem Torain, was      22 followed back to 1621 North Conestoga Street by      23 Police Officer Walker where police observed Torain      24 exit his vehicle and enter 1621 Conestoga.</p>

<p style="text-align: right;">Page 293</p> <p>1 Now, that's information that you 2 would have gotten from Walker? 3 A. Yes. 4 Q. Police observed Delee go immediately back 5 to the corner of 56th and Master and give small 6 objects which he retrieved from his pocket to 7 numerous males and females in exchange for U.S. 8 currency. 9 Now, did you observe that with your 10 own eyes? 11 A. Yes. 12 Q. At approximately 1:43 p.m. police observed 13 the Sebring traveling westbound on Master Street 14 being operated by a Christina Braxton stop in front 15 of 5607 Master. 16 Now, is that the same area where 17 Delee was located? 18 A. He was on the corner back and forth. 19 Q. Now, I'm going to skip a sentence. I want 20 to start where it says that at approximately 1:55 21 p.m. Kelly -- your partner, right? 22 A. Yes. 23 Q. He overheard Delee who was standing on the 24 southeast corner of 56th and Master tell Kabiyan</p>	<p style="text-align: right;">Page 295</p> <p>1 Q. At this point Torain exited his vehicle 2 and entered into 1628 North 55th Street with a key. 3 Again, you didn't observe that? That would have 4 been Officer Reynolds? 5 A. Yes. 6 Q. On the next page it says that at 7 approximately 2:05 police observed Delee answer the 8 pay phone on the northwest corner of 56th and 9 Master Street and jog to the Buick which was 10 mentioned on the day before, which was January 3, 11 2001; is that correct? 12 A. That's correct. 13 Q. Now, did you observe that or did someone 14 tell you that? 15 A. No. I saw him jog to it. 16 Q. This was all from your van? 17 A. Yes. 18 Q. Along with Diggs and Arthur Tillman, 19 Police Officer Walker followed them to 55th and 20 Hunter Street where they parked the car on 55th 21 Street. All these males exited the Buick and were 22 admitted into 1628 South 55th Street by Torain. 23 Now, is that something you observed 24 or is that something you got from another police</p>
<p style="text-align: right;">Page 294</p> <p>1 Diggs that Kareem, operator of the green 2 Bonneville, only had a bundle on him and would call 3 him when the rest was ready? 4 A. Yes. 5 Q. Now, you didn't hear that, but Officer 6 Kelly overheard that? 7 A. Yes. 8 Q. And he overheard Delee saying that? 9 A. Yes. 10 Q. Delee was the same individual who went up 11 to the green Bonneville, got in and later you saw 12 him in appeared to be what -- in what appeared to 13 be narcotics transactions on the corner shortly 14 after exiting the green Bonneville? 15 A. Yes. 16 Q. Then at approximately 2:00 o'clock 17 Reynolds, Police Officer Reynolds, observed Torain 18 exit 1621 North Conestoga Street and travel 19 westbound on Hunter Street in the Bonneville to the 20 southwest corner of 56th and Hunter Street. 21 Now, that's something you didn't 22 observe, but you were told that by Officer 23 Reynolds? 24 A. Yes.</p>	<p style="text-align: right;">Page 296</p> <p>1 officer? 2 A. I got from another police officer. 3 Q. Who would that have been? 4 A. I'm not sure who said it, but somebody 5 came over the radio and said that they were let in 6 by the male. 7 Q. Because it says -- in the sentence before 8 it says that Police Officer Walker followed them to 9 55th and Hunter Street where they parked the car on 10 55th Street. 11 Now, could it have been Officer 12 Walker, could it have been Officer Reynolds or you 13 just don't remember? 14 A. I don't remember. 15 Q. Fair enough. It says that after 16 approximately 20 minutes all three males; Delee, 17 Tillman and Diggs, exited 55th Street with Delee 18 placing a clear bag inside of his jacket. 19 Now, who saw that? 20 A. Police Officer Walker. 21 Q. All three males go into the Buick and were 22 followed back to 56th and Master by Police Officer 23 Reynolds. Police Officer Walker remained at 55th 24 and Hunter watching 1628 55th Street. At</p>

<p style="text-align: center;">Page 297</p> <p>1 approximately 2:35 police observed Hodge exit 5607      2 Master Street and go into a red Plymouth Breeze      3 with Delaware tag D4398 and take unknown objects      4 from inside the car and the trunk. Hodge then      5 walked back into 5607 Master Street.      6 Now, is that all things that you      7 observed or you were told that?      8 A. No. I observed them from within the van.      9 Q. Now, on the next paragraph I'm going to      10 skip down to where it says "All three males      11 exited."      12 Do you see that?      13 A. Yes.      14 Q. It says that all three males exited the      15 vehicle and walked to the porch of 5605 Master      16 Street. At approximately 2:37 p.m. police observed      17 Delee hand bundles to Moon, Freeman, Hodge and      18 Diggs. Delee then placed a clear baggie containing      19 numerous green tinted packets in his right jacket      20 pocket. Delee was then observed giving these small      21 green packets to numerous people in exchange for      22 U.S. currency.      23 Is that something you observed?      24 A. Yes, it was.</p>	<p style="text-align: center;">Page 299</p> <p>1 your thinking in justifying the order to have      2 Reynolds stop and arrest Mr. Torain?      3 A. Yes, they were.      4 MR. BRIGANDI: Mr. Walker, you      5 showed him a search warrant and you were      6 asking him about a supervisor's signature.      7 Was it this page here?      8 MR. WALKER: It's a different one.      9 MR. BRIGANDI: Do we know which one      10 it was?      11 MR. PILEGGI: It's Monaghan-2.      12 MR. BRIGANDI: That's all I have.      13 (Deposition concluded at 3:40 p.m.)</p>
<p style="text-align: center;">Page 298</p> <p>1 MR. PILEGGI: Can I ask something?      2 Is Daylee and Delee the same?      3 MR. BRIGANDI: Yes. I'm not sure      4 what the correct pronunciation is.      5 BY MR. BRIGANDI:      6 Q. Finally, in the next paragraph it says      7 that at approximately 2:58 Torain left 1628 North      8 55th Street and left the area in his Bonneville.      9 Is that something you observed?      10 A. No, I did not.      11 Q. Do you know who observed that?      12 A. Reynolds.      13 Q. Okay. Police Officer Reynolds followed      14 this vehicle out of the area and with the aid of      15 uniformed vehicles stopped Torain at 61st and      16 Nassau Street and placed him under arrest.      17 Now, that would have been at your      18 direction, correct?      19 A. Yes, it was.      20 Q. Now, in all the things that I just went      21 over from the bottom of the first page, which was      22 7424, until the top and middle of this page, 7425,      23 are those things that you considered in      24 establishing the -- are those things that went into</p>	<p style="text-align: center;">Page 300</p> <p>1      2 CERTIFICATION      3      4 ---      5 I hereby certify that the testimony and      6 the proceedings in the foregoing matter are      7 contained fully and accurately in the      8 stenographic notes taken by me, and that the      9 copy is a true and correct transcript of the      10 same.      11      12      13      14      15 DONNA M. RAY, R.P.R., C.C.R.      16 License No. XI 02161      17      18 The foregoing certification does not apply to      19 any reproduction of the same by any means unless      20 under the direct control and/or supervision of the      21 certifying shorthand reporter.      22 ---      23      24</p>

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